

BABERGH DISTRICT COUNCIL

<u>FROM:</u> Director of Finance	<u>REPORT NUMBER:</u> L24
<u>TO:</u> OVERVIEW AND SCRUTINY (STEWARDSHIP) COMMITTEE	<u>DATE OF MEETING:</u> 14 June 2011

ETHICAL FRAMEWORK AND MANAGING THE RISK OF FRAUD & CORRUPTION – ANNUAL REPORT FOR 2010/11

1. PURPOSE OF REPORT

- 1.1 This report explains the current arrangements in place within Babergh District Council to ensure there is a pro-active corporate approach to preventing fraud and corruption and creating a culture where fraud and corruption will not be tolerated.
- 1.2 The report also provides details of proactive work undertaken by Internal Audit and the Fraud Team to deter, prevent and detect fraud and corruption.

2. RECOMMENDATIONS

- 2.1 That the Committee notes the progress made in ensuring there are effective arrangements and measures in place across the Council to minimise the risk of fraud and corruption.
- 2.2 That the Committee notes the action taken in relation to the Anti-Fraud and Corruption Action Plan for 2010/11, as referred to in paragraph 8.7 and set out in Appendix A.

The Committee is able to resolve these matters.

3. FINANCIAL IMPLICATIONS

- 3.1 Whilst there are no direct implications arising from this report there are potential resource implications concerning anti-fraud and corruption issues. Any implications arising from the need to introduce additional controls and mitigations will be discussed with management. The emphasis at all times will be to improve controls without increasing costs or jeopardising efficient and compliant service delivery.

4. RISK MANAGEMENT

- 4.1 This report is most closely linked with the Council's Significant Business Risk No.6, Performance and Cost Management. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
If robust anti-fraud and corruption arrangements are not in place this could affect the achievement of the Council's strategic aims and priorities, key projects, the delivery of services and its reputation.	Low	Critical	<p>The risk of fraud and corruption in relation to Council activities is taken into consideration both as part of the Council's general approach to risk management and also in the development of the Internal Audit Plan from year to year.</p> <p>In practice, the Council's mitigating controls include clear policies and procedures available to all employees and Members; Internal Audit and the Fraud Team who investigate potential areas of fraud or corruption; the bi-annual participation in the National Fraud Initiative; and a sound internal control environment - as demonstrated by internal and external audit opinions and the Annual Governance Statement.</p> <p>The Council's Financial Regulations and Procedures give responsibility for the development and maintenance of an Anti-Fraud and Corruption Policy and Strategy to the Director of Finance. Senior management of the Council are responsible for ensuring that this policy is implemented within the work areas under their control.</p>

5. CONSULTATIONS

5.1 None

6. EQUALITY AND DIVERSITY IMPACT

6.1 There are no equalities implications arising from this report.

7. SHARED SERVICE / PARTNERSHIP IMPLICATIONS

7.1 Babergh and Mid Suffolk officers are working towards aligning relevant policies and procedures to provide a clear corporate framework to counter fraudulent and corrupt activity.

8. KEY INFORMATION

Introduction

- 8.1 The Council's Ethical Framework is the set of rules and procedures which set out the standards of behaviour that the Council expects of its Members and staff.
- 8.2 Closely linked to the Council's Ethical Framework are the arrangements it has in place to manage the risk of fraud and corruption. This report provides a clear basis for raising awareness by setting out information that will be communicated to Members, staff and other stakeholders of the work the Council undertakes to manage the risk of fraud and corruption. It brings together in one document a summary of the outcomes of our work to deter, prevent and detect fraud and corruption over the last 12 months.
- 8.3 Although the Council has traditionally encountered low levels of fraud, corruption and theft, the risk of such losses both internally and externally is fully recognised as a part of the Council's operations that needs to be managed pro-actively and effectively.
- 8.4 The Council's expectation of propriety and accountability is that Members and employees, at all levels, will lead by example in ensuring adherence to legal requirements, policies, procedures and practices.
- 8.5 The Council also expects that individuals and organisations (e.g. suppliers, contractors, partners, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

CIPFA RED BOOK 2 – Managing the risk of fraud

- 8.6 In last year's report, (Paper J204), Members were advised of the CIPFA Red Book 2. The Book identified areas of good practice with regards to combating fraud and corruption and provided a useful self-assessment tool for the Council.
- 8.7 Completion of the self-assessment showed that the Council is, on the whole, already substantially complying with the requirements of the Red Book 2. A proposed action plan was produced where it was identified that the Council could further strengthen their arrangements. Appendix A provides a position statement against the Action Plan.

Protecting the Public Purse

- 8.8 The Audit Commission produced a report entitled 'Protecting the Public Purse 2010'- Fighting fraud against local government and local taxpayers-October 2010, that expanded on their 'Protecting the Public Purse' report of 2009, which considered the key fraud and corruption risks and pressures facing local authorities and related bodies and identified good practice areas. The 2010 report includes an updated fraud checklist, which was completed by the Internal Audit and Fraud Team.

- 8.9 The main change is that Internal Audit have provided the Procurement Manager with guidance from the Office of Fair Trading on identifying and reporting on cartel activity. The Procurement Manager has incorporated their guidance into her working procedures.
- 8.10 The results show again that assurance can be taken that the Council has governance and anti-fraud and corruption arrangements in place that are fit for purpose and working as intended.

Raising Awareness

- 8.11 Work continues on raising fraud awareness across the Council and last year, the following has been done:
- Issue of the second (autumn) edition of a bi-annual fraud awareness newsletter to all staff and Members. It has been designed to highlight areas of fraud and corruption in the workplace and to help staff and Members understand why we need to combat it effectively.
 - Alerting relevant staff of National Fraud Bulletins and ensuring that the Council's internal controls are adequate.
 - Issue of an anti-fraud and corruption survey to staff to gauge and measure awareness - Results on the survey show that of the 100 staff (representing 33% of Babergh's staff) completing the survey there is a good level of knowledge of where to locate information about the Council's policies and procedures relating to fraud and corruption. There is also a good level of awareness of the potential risks of fraud in staff's work areas and who they should report their concerns to.
 - Timely annual reminders are sent to Members and staff reminding them of their responsibilities within their respective Codes of Conduct, regarding declaration of interests, gifts and hospitalities. These areas were also subject to a recent internal audit, which reviewed and evaluated the system and processes in place. The results of this will be reported in the Internal Audit Annual Report 2010/11.

Policies and Procedures

- 8.12 The Council is committed to ensuring that any opportunities for committing fraud and corruption are minimised. It adopts a culture in which all of its employees, Members and stakeholders can help the organisation maintain a proactive attitude towards preventing fraud and corruption by reporting fraudulent, corrupt, dishonest or unethical behaviour.

- 8.13 To support this the Council has a range of interrelated policies and procedures that provide a corporate framework to counter fraudulent and corrupt activity. These have been formulated in line with appropriate legislative requirements, and include an Anti-Fraud & Corruption and Whistleblowing Policy, incorporating the Counter Fraud Strategy, Money Laundering notes and other guidance available to all through the Council website and intranet facilities (BEN).
- 8.14 As Babergh and Mid Suffolk District Council look to integrate their services this will present an ideal opportunity to review both policies with the aim of adopting a joint policy framework. This will be done in the first half of 2011/12.

National Fraud Initiative

- 8.15 The NFI is a two-yearly exercise, run by the Audit Commission that matches electronically supplied data from within public sector organisations to highlight potentially fraudulent activity
- 8.16 During the 2008/09 exercise Babergh received a total of 1,472 matches of which 1,465 have been processed (99.5%). This leaves only 7 cases with ongoing checks required by DWP and CTAX.
- 8.17 Of the 1,465 data matches processed, 57 cases (around 4%) identified overpayments of benefit totalling £81,000. (£69,000 occurred during 2009/10 and £12,000 occurred during 2010/11). The overpayments ranged from as little as £1 to the highest of over £15,000. Recovery of overpayments in all 57 cases is pursued by the Council's Recovery Teams for Housing Benefit overpayments and Council Tax. Other than benefits there were no other data match type issues with financial implications.
- 8.18 The new NFI 2010/11 exercise has commenced. The first batch (1,629 matches) of results were received on the 31st January 2011 and 31st March 2011. The Fraud Team has started a review of some of the high priority matches. With the establishment of a new Fraud Partnership, see paragraph 8.23 & 24, the Internal Audit section will now undertake the NFI organisational work.

Benefit Fraud – Arrangements

- 8.19 Benefit overpayments can and do occur as a result of false statements and/or omissions at the start of a claim or changes during the life of the claim and these are not properly or promptly identified, as well as errors made by claimants. The Council does not pursue formal sanctions against anyone innocently causing an overpayment by making a genuine error. The Council does, however, seek to recover overpayments incurred, either by fraud or error.
- 8.20 From April 2011 a new Benefit Fraud Partnership is being established. Refer to paragraph 8.25, under Future Developments.

8.21 The following table provides key information and a breakdown of the benefit fraud cases for all of 2009/10 and 2010/11:

Category	Number	
	2009/10	2010/11
Full Time Equivalent (FTE) Babergh Fraud Team (investigators and senior investigator)	2.8	2.66 (reduction in hours)
Number of referrals received within the year. All checked for relevance and a decision is made whether they are accepted as an investigation by Babergh Fraud Team, referred to DWP investigation service to consider (where DWP benefit is a passport benefit to HB/CTB), referred to other LA teams, referred to HB/CTB admin to make enquiries, closed when information is incorrect/out of date/not relevant	545	*576
Number accepted for full investigative action by Babergh Fraud Team	188 (34%)	170 (30%)
Number of full investigation cases completed by Babergh Fraud Team	182	162
Number accepted for short (Admin) investigative action by Babergh Fraud Team	61	82
Number of short (Admin) investigation cases completed by Babergh Fraud Team	61	82
Number of cautions administered (A caution is a written acceptance by the offender that they have committed the offence(s)-Conditions apply as to when they are offered as an alternative to prosecution).	43	36
Number of administrative penalties administered (An Administrative Penalty is a fixed 30% fine based on the value of the overpaid benefits that has to be accepted in writing by the offender-There is a 28 day cooling off period where the offender can withdraw their acceptance-Conditions apply as to when they are offered as an alternative to prosecution. (The penalty monies collected are kept by BDC. These funds are not currently ring fenced to Audit & Fraud).	3	5
Number of prosecutions taken forward to court	19	20
Number of successful prosecutions at court (Prosecution of an offender in a court of law: lower level cases usually heard in Magistrates Courts. Higher level, more complex and/or where the alleged offender elects to plead not guilty, these cases go to Crown Courts).	19	19 (1 not guilty)
Number of investigations awaiting a Babergh Legal Department decision on the appropriate sanction action going into next year	n/a	8
Number of full investigations going into next year	38	46

* Does not include all the NFI data match referrals.

8.22 As a result of its work up to the 31st March 2011, the Fraud Team had:

- Identified over £202,000 of benefit overpayments - of which £12,000 was for NFI paid out in fraudulent or claimant error benefits claims as referred to earlier in the report;
- Earned potential Government subsidy totalling £67,000 as a result of the Fraud Team's identification of the above overpayments that received a 40% subsidy rate.
- Costs awarded to Babergh by the courts and Admin Penalties fines charged to claimants totalled £10,000.

Future Developments

8.23 A new Fraud Partnership is being established from April 2011. This partnership will involve Fraud Team staff from Babergh, Mid Suffolk District Council and Ipswich Borough Council. Ipswich Borough Council already has a Fraud partnership with Suffolk Coastal District Council. Some aspects of the current work of Babergh's Fraud Team will be covered under the proposed joint Internal Audit arrangement between Babergh and Mid Suffolk District Council.

8.24 It is likely that the NFI organisational work and that the Key Contact for NFI will come under the joint Babergh & Mid Suffolk Council arrangement, rather than the Key Contact coming from the Fraud Partnership. Therefore, Internal Audit Plans and Counter-Fraud Plans for 2011/12 will reflect these changes.

Conclusions

8.25 The Anti-Fraud & Corruption and Whistleblowing Policy, incorporating the Counter Fraud Strategy, supported by a sound network of systems and procedures continue to provide a clear framework for preventing and tackling fraudulent and corrupt acts against the Council.

8.26 The approval of the Policy by this Committee and the work carried out by Internal Audit and the Fraud Team demonstrates the Council's commitment to protecting public funds and minimising losses to fraud and corruption.

9. APPENDICES

Title	Location
A - Status report against the Anti-Fraud and Corruption Action Plan for 2010/11	Attached

10. BACKGROUND DOCUMENTS

10.1 Paper J204 – Ethical Framework and Managing the Risk of Fraud and Corruption (March 2010).

10.2 Paper H177 – Interim Internal Audit report 2008/09 and revised Anti-Fraud and Corruption and Whistleblowing Policy (January 2009).

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Appendix A

STATUS POSITION AGAINST THE ANTI-FRAUD AND CORRUPTION ACTION PLAN 2010/11

Specific areas targeted	Purpose/Area of interest	Responsible for Action	Status Position
Counter Fraud Strategy and Anti-Fraud & Corruption and Whistleblowing Policy	Due for review and updating in line with current/future objectives – Fit for purpose.	Lead through the Internal Audit function	With Babergh and Mid Suffolk looking to integrate/merge their services an opportunity exists during 2011/12 to review both sets of policies and procedures with the aim of adopting best practice.
Collection of external data	Appropriate information at all times must be supported by Fair Processing Notices of how information can be used e.g. data matching for fraud/criminal matters. Ensure clear instructions/guidance exists that cover: <ul style="list-style-type: none"> ▪ Staff responsibilities ▪ Changes to forms/documents that request information ▪ Timescales for keeping/destroying data ▪ Compliance with instructions/guidance 	Lead through the Internal Audit function	
HR Recruitment and internal job changes	Application forms, reference checks, CRB normal & enhanced checks, ongoing responsibilities of staff.	Lead through the Internal Audit function	Recruitments checks to be incorporated within the Payroll/HR internal audit work for 2011/12.

Specific areas targeted	Purpose/Area of interest	Responsible for Action	Status Position
Contracts – Partnerships - Commissioning	Ensure a standard clause exists in all contracts with regard to reporting suspected fraud/corruption/bribery, and the outcomes if any suspicion is founded.	Lead through the Internal Audit function	Details of the Council's Anti-Fraud and Corruption Policy are included with tender documentation. The Government has confirmed that the Bribery Act 2010 will come into force in July 2011. A joint review with Mid Suffolk will be carried out to ensure a standard clause is added to all contract documentation, and other relevant key Council documents.
Social Housing	<p>Linking with the NFI data matching and funding applied for and received for work in this area. Ensure all documents requesting information include:</p> <ul style="list-style-type: none"> ▪ Declaration of accuracy/truth ▪ Ongoing responsibility to declare changes in circumstances ▪ Consequences of declaring false information ▪ How the reported data will be used. ▪ Verification processes that may be undertaken 	Lead through the Internal Audit function	BDC Housing staff started working with the Fraud Team to examine this area of work. With service integration with Mid Suffolk, Housing staff are looking to review procedures with the aim of adopting a joint process. BDC Housing will continue to liaise with Internal Audit to progress work in this area.

Specific areas targeted	Purpose/Area of interest	Responsible for Action	Status Position
Linking of documents	Ensure all the governance documents are located in one place for all staff/members/public/contractors/suppliers/other stakeholders to access. Ensure clear responsibility exists for monitoring/updating/publicising the above documents.	Lead through the Internal Audit function	Governance documents are located in one area of the Council's website. Internal Audit will be responsible for ensuring they are kept up to date.
Raise awareness through internal and external publicity	Put in place methods for raising awareness, targeting the audience and locations.	Lead through the Internal Audit function	Refer to paragraph 8.11 within the main body of the report.
Contract letting procedures	Ensure our contract letting procedures comply with the good practice guidance issued by the Office of Fair Trading (OFT) to reduce the risk of illegal practices such as cartels?	Lead through the Internal Audit function	Internal Audit has provided the Procurement Manager with guidance from the OFT on 'Understanding Competition Law – Cartels and the Competition Act 1998. The guide is designed to help 'purchasers' identify cartel activity and how to report their suspicions. This guidance has been incorporated into the Procurement Manager's working procedures.

Specific areas targeted	Purpose/Area of interest	Responsible for Action	Status Position
Other key risk areas	Undertake specific reviews throughout the Council and target risk areas.	Lead through the Internal Audit function	Internal Audit carries out an annual assessment of the areas most at risk of fraudulent activity with senior management. This contributes to the overall formation of audit coverage. Refer to the Internal Audit Annual Report 2010/11.

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