

South Lakeland District Council
Audit Committee
Wednesday, 8 December 2021
Annual Review of Anti-Fraud Policy & Activity

Portfolio: Not applicable
Report from: Section 151 Officer
Report Author: Helen Smith – Finance Lead Specialist (Section 151 Officer)
Wards: (All Wards);
Forward Plan: Not applicable

Links to Council Plan Priorities:

Working across boundaries – Officers work nationally to identify and combat fraud and other economic crimes.

Delivering a balanced community –N/A

A fairer South Lakeland – Deterring and identifying fraud will help provide a fairer South Lakeland

Addressing the climate emergency –N/A

1.0 Expected Outcome and Measures of Success

1.1 This report presents the results of the Audit Committee’s annual review of the Council’s Anti-Bribery, Fraud and Corruption Policy and provides statistical data on cases where sources of information indicated that fraudulent activity might be occurring.

2.0 Recommendation

2.1 It is recommended that Audit Committee:-

- (1) note the review of the Anti-Bribery, Fraud and Corruption Policy (Appendix 1) and the Anti-Money Laundering Policy (Appendix 3);**
- (2) request Council approve the Counter Fraud Strategy 2021-2024 and the -Tax Evasion Policy Procedures and Reporting Arrangements;**
- (3) note the review against the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption Counter-Fraud Assessment Tool and Fighting Fraud and Corruption Locally 2020 Checklist; and**
- (4) note the anti-fraud activity.**

3.0 Background and Proposals

3.1 The Audit Committee Work Programme for 2021/22 includes an annual review of the Anti-Bribery, Fraud and Corruption Policy. This policy links very closely with the Whistleblowing Policy, which is normally reviewed biennially and will be reported to the next meeting of Audit Committee.

3.2 There are a large number of bodies involved in anti-fraud activity. Officers monitor surveys and recommended good practice from many sources including:

- the Cabinet Office, who run the National Fraud Initiative(NFI),
- the National Crime Agency,
- the Counter Fraud Centre, run by the Chartered Institute of Public Finance and Accountancy (CIPFA)
- the Institution of Revenues, Rating and Valuation (IRRV),
- Department of Work and Pensions (DWP)/Single Fraud Investigation Service (SFIS),
- National Anti-Fraud Network (NAFN)
- Lancashire fraud manager group.

Policies and Procedures

- 3.3 The Anti-Bribery, Fraud and Corruption Policy (**Appendix 1**) forms part of the Council's Policy Framework. The last review of the Anti-Bribery, Fraud and Corruption Policy was by Audit Committee in September 2019 with minor amendments made to reflect new job titles and roles arising from Phase 1 of Customer Connect. No further amendments are proposed.
- 3.4 In June 2019 the Government published its first Economic Crime Plan and included fraud and corruption in the definition: "economic crime refers to a broad category of activity involving money, finance or assets, the purpose of which is to unlawfully obtain a profit or advantage for the perpetrator or cause loss to others." It includes criminal activity which:
- allows criminals to benefit from the proceeds of their crimes or fund further criminality
 - damages the UK financial system and harms the interests of legitimate business
 - undermines the integrity of the UK's position as an international financial centre
 - poses a risk to the UK's prosperity, national security and reputation
- However, the terms 'fraud' and 'corruption' have been retained while recognising that they are part of a wider agenda.
- 3.5 CIPFA produced a new Code of Practice on Managing the Risk of Fraud and Corruption in October 2014. Guidance notes on the implementation of the code were published in December 2014 and a Counter-Fraud Assessment Tool was been produced and is included at **Appendix 4**.
- 3.6 The Council's Fraud Specialist prepared fraud and corruption risk assessments with operational managers and action plans for all Council services. These risk assessments was used to inform the production of a draft Counter Fraud Strategy, incorporating an action plan, which was approved by Audit Committee in December 2017. This strategy has now been updated to reflect new job roles and completion of tasks and is attached at **Appendix 2**.
- 3.7 The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into force on 26 June 2017 and implement the EU's 4th Directive on Money Laundering. They improve upon and plug certain gaps in the Money Laundering Regulations 2007 and the Transfer of Funds (Information on the Payer) Regulations 2007 which they replace. Councils now are obliged to adopt a more risk-based approach towards anti-money laundering. The Anti-Money Laundering Policy (**Appendix 3**) was approved by Audit Committee in December 2017 and was updated in September 2019 for new job roles and titles. No further amendments are proposed.

New Policy: Tax Evasion

- 3.8 Part 3 of the Criminal Finances Act 2017 took effect on the 30 September 2017. It created two corporate offences, one relating to the evasion of UK tax and one relating to the evasion of foreign tax. The legislation is very widely drawn and can apply to the evasion of any tax, including indirect and employment taxes, anywhere in the world. Any UK business, be it a UK corporate or a foreign corporate doing business in the UK, will be within the scope of both offences, including Local Authorities. The corporate entity will have a strict liability under criminal law for failing to prevent the facilitation of tax evasion by one of its 'associates'. An 'associated person' includes:
- a) An employee of the corporate entity;
 - b) An agent of the corporate entity;
 - c) Any other 'person' (individual or corporate) who performs services for or on behalf of the corporate entity including contractors, subcontractors, suppliers, and other parties in the supply chain etc.
- 3.9 If the corporate entity fails to prevent its employees, workers, agents, or service providers facilitating tax evasion, the corporate entity can face prosecution and could lead to:
- i) An unlimited fine;
 - ii) Public record of the conviction;
 - iii) Significant reputational damage and adverse publicity.
- 3.10 This legislation is very similar to the Bribery Act 2010, where a corporate offence exists when a corporate entity has failed to prevent bribery. The corporate entity can defend its position, if it can prove that 'reasonable prevention procedures' are in place. Following the Act coming into effect, the Government provided guidance suggesting six guiding principles can form a defence, namely:
- 1) Risk assessment;
 - 2) Proportionality of risk-based prevention procedures;
 - 3) Top level commitment;
 - 4) Due diligence;
 - 5) Communication (including training);
 - 6) Monitoring and review
- 3.11 The Council has controls in place within its processes and systems to prevent and identify tax evasion. In addition, Internal Audit periodically undertake audits of areas which are at risk of tax evasion. There is no suggestion that the Council tolerates tax evasion, or that staff have engaged in such behaviour; however, in recent times the corporate criminal offence of facilitating tax evasion has featured more highly on the agenda of corporate entities, including Local Authorities, as HMRC have stated they have started investigating offences (believed to be in the private sector). Therefore, to strengthen the Council's defence, and in line with best practice advise and other Local Authorities agreeing a formal policy, work has been carried out to assess the risk to the Council and formalise the Council's stance in a formal policy (**Appendix 4**). If Audit Committee agree the draft policy it should be referred to Council for full approval: although not explicitly part of the Budget and Policy Framework it is of similar importance as the other fraud policies which are part of the Budget and Policy Framework.

Assessment

- 3.12 The Local Government counter fraud and corruption strategy, Fighting Fraud & Corruption Locally, has been updated in 2020 and sets out a strategy for the 2020s. The report builds on earlier versions of Fighting Fraud Locally and developments such as the Serious and Organised Crime Strategy and the UK Anti-Corruption Plan. By using the strategy local authorities will:
- a. develop and maintain a culture in which fraud and corruption are unacceptable
 - b. understand the harm that fraud can do in the community
 - c. understand their fraud risk
 - d. prevent fraud more effectively
 - e. use technology to improve their response
 - f. share information and resources more effectively
 - g. better detect fraud loss
 - h. bring fraudsters to account more quickly and efficiently
 - i. improve the recovery of losses
 - j. protect those at risk.

The report acknowledges that local authorities have made significant progress in tackling fraud by acknowledging and understanding the risks they face and by collaborating, making more use of technology and information sharing to prevent fraud. The report highlights the changing ways in which fraudsters target existing areas of vulnerability. Fraud prevention rather than just fraud detection will need to become an increasingly important part of the overall strategic response of councils to fraud.

Activity

- 3.13 The Council employs a corporate specialist for anti-fraud who works closely with both revenues and benefits staff and finance staff in tackling fraud. This corporate role has also been involved in raising the profile of anti-fraud and corruption in the authority. This has included attending team meetings, briefing operational managers and reviewing policies and practices across the Council to ensure consistency of practice. Fraud risk assessments have been prepared, which helps to direct her activity to key risk areas and has helped change procedures to reduce opportunity for fraud. Compulsory fraud awareness training has been introduced for all new staff as part of the corporate induction process.
- 3.14 The policy requires a central log to be kept of all reported cases of fraud and whistleblowing by the Finance Lead Specialist, which will be reported periodically to the Audit Committee. The attached analysis in Appendix 6 summarises the work undertaken and the outcome of investigations excluding National Fraud Initiative "NFI" investigations. The Council is also working with South Lakes Housing to review all applications for Right-to-Buy as this has been identified nationally as an area of high risk and high value.
- 3.15 The National Fraud Initiative matches electronic data within and between public and private sector bodies to prevent and detect fraud. This includes police authorities, local probation boards, fire and rescue authorities as well as local councils and a number of private sector bodies. There are now two separate NFI matching exercises: one is a biannual process including benefits, housing, licensing, employee and insurance data which required the submission of data in October 2020. The

second exercise concerns Council Tax single person discounts and the electoral register which is conducted biannually when there is no full NFI exercise at the same time that the electoral register is finalised in December. The Council's Fraud Specialist leads on both the submission of data and the processing of matches for the NFI.

4.0 Appendices Attached to this Report

| Appendix No. | Name of Appendix |
|--------------|---|
| 1 | Anti-Bribery, Fraud and Corruption Policy |
| 2 | Counter Fraud Strategy 2021-2024 |
| 3 | Anti-Money Laundering Policy |
| 4 | Anti-Tax Evasion Policy Procedures and Reporting Arrangements |
| 5 | CIPFA Code of Practice on Managing the Risk of Fraud and Corruption Counter-Fraud Assessment Tool |
| 6 | Fighting Fraud and Corruption Locally 2020 Checklist |
| 7 | Fraud activity (to follow) |

5.0 Consultation

5.1 Officers have reviewed best practice relating to anti-bribery, fraud and corruption.

6.0 Alternative Options

6.1 It is good practice to have an Anti-Bribery, Fraud and Corruption Policy, Anti-Money Laundering Policy and Anti-Tax Evasion policies.

7.0 Implications

Financial, Resources and Procurement

7.1 This report has no direct financial implications. Effective anti-fraud procedures minimise the likelihood of financial losses through fraud.

Human Resources

7.2 There are no direct human resources implications of this report.

Legal

7.3 There is a criminal offence of failing to prevent bribery under the Bribery Act 2010 and if convicted an organisation can be liable to an unlimited fine. Therefore the review of this policy and compliance has an important role in minimising the risks to the Council arising from this legislation.

7.3.1 As set out in paragraphs 3.8 to 3.11, Part 3 of the Criminal Finances Act 2017 took effect on the 30 September 2017. It created two corporate offences, one relating to the evasion of UK tax and one relating to the evasion of foreign tax. The legislation is very widely drawn and can apply to the evasion of any tax, including indirect and employment taxes, anywhere in the world. Any UK business, be it a UK corporate or a foreign corporate doing business in the UK, will be within the scope of both offences, including Local Authorities. The corporate entity will have a strict liability under criminal law for failing to prevent the facilitation of tax evasion by one of its 'associates'.

Health and Sustainability Impact Assessment

7.4 Have you completed a Health and Sustainability Impact Assessment? No

7.5 If you have not completed an Impact Assessment, please explain your reasons: The review of the anti-fraud policy has no direct HSEE implications.

7.6 Summary of Health and Sustainability Impacts

| | | Positive | Neutral | Negative | Unknown |
|--------------------------------|---|---------------------------------------|---------|----------|---------|
| Environment and Health | Greenhouse gases emissions | | | | X |
| | Air Quality | | | | X |
| | Biodiversity | | | | X |
| | Impacts of Climate Change | | | | X |
| | Reduced or zero requirement for energy, building space, materials or travel | | | | X |
| | Active Travel | | | | X |
| | Economy and Culture | Inclusive and sustainable development | | | |
| | Jobs and levels of pay | | | | X |
| | Healthier high streets | | | | X |
| | Culture, creativity and heritage | | | | X |
| Housing and Communities | Standard of housing | | | | X |
| | Access to housing | | | | X |
| | Crime | | | | X |
| | Social connectedness | | | | X |

Equality and Diversity

7.7 Have you completed an Equality Impact Analysis? No

7.8 If you have not completed an Impact Analysis, please explain your reasons: The review of the anti-fraud policy has no direct Equality and Diversity implications.

7.9 Summary of Equality and Diversity impacts

| Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X" | | | | | | |
|---|---|--|---|---|---|--|
| Age | P | | 0 | X | N | |
| Disability | P | | 0 | X | N | |
| Gender reassignment (transgender) | P | | 0 | X | N | |
| Marriage & civil partnership | P | | 0 | X | N | |
| Pregnancy & maternity | P | | 0 | X | N | |
| Race/ethnicity | P | | 0 | X | N | |
| Religion or belief | P | | 0 | X | N | |

| | | | | | |
|------------------------------------|----------|----------|----------|----------|--|
| Sex/gender | P | 0 | X | N | |
| Sexual orientation | P | 0 | X | N | |
| Armed forces families | P | 0 | X | N | |
| Rurality | P | 0 | X | N | |
| Socio-economic disadvantage | P | 0 | X | N | |

| Risk Management | Consequence | Controls required |
|--|--|--|
| Failure to have an Anti-Fraud and Corruption Policy in place. | <p>There will be no high level direction to the way in which fraudulent or corrupt acts are reported, investigated or dealt with.</p> <p>Fraud and corruption will not be detected resulting in significant losses in council finances and bad publicity.</p> <p>Lack of procedures to prevent bribery may lead to prosecution</p> | <p>A policy that clearly reflects the Council's stance on fraud and corruption which acts as a deterrent to potential fraudsters.</p> <p>A policy that clearly defines responsibilities and the introduction of monitoring arrangements to highlight high risk areas.</p> <p>A policy that clearly defines bribery and defines responsibilities for ensuring 'adequate procedures' to prevent bribery.</p> |
| Failure to have effective Anti-fraud monitoring in place | Fraud and corruption will not be detected resulting in significant losses in Council finances and bad publicity | A Policy that clearly identifies responsibilities and monitoring arrangements to highlight high risk areas. |
| Failure to have effective Anti-Tax Evasion Policy Procedures and Reporting Arrangements in place | Failure to prevent the facilitation of tax evasion by an associated person could lead to the Council facing criminal sanctions including an unlimited fine and associated reputational damage. | The Council has policies, processes and controls in place to prevent and identify tax evasion by an associated person. |

Contact Officers

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Background Documents Available

| Name of Background document | Where it is available |
|--|--|
| Fighting Fraud and Corruption Locally A strategy for the 2020s A reponse to economic crime and fraud | FFCL - Strategy for the 2020s.pdf (local.gov.uk) |

Tracking Information

| Signed off by | Date sent | Date Signed off |
|---------------------|--------------------|----------------------------|
| Section 151 Officer | 29/11/2021 | Report of the S151 Officer |
| Monitoring Officer | 29/11/2021 | 30/11/2021 |
| CMT | 29/11/2021 (Email) | 30/11/2021 |

| Circulated to | Date sent |
|---------------------------------|------------|
| Lead Specialist | N/A |
| Human Resources Lead Specialist | 29/11/2021 |
| Communications Team | N/A |
| Leader | N/A |
| Committee Chairman | N/A |
| Portfolio Holder | N/A |
| Ward Councillor(s) | N/A |
| Committee | 08/12/2021 |
| Executive (Cabinet) | N/A |
| Council | 14/12/2021 |