

The background of the slide features a large, light blue crest of the University of Alberta. The crest includes a crown at the top with four floral motifs, a shield with a cross and a stag's head, and a banner at the bottom with the motto "ANNE FOR A".

## **Agenda Item 5**

# **Review of Whistleblowing and Corporate Fraud Investigation Procedures**

**Falkirk Council**

**Title:** **Review of Whistleblowing and Corporate Fraud Investigation Procedures**

**Meeting:** **Audit Committee**

**Date:** **21 June 2021**

**Submitted By:** **Director of Corporate and Housing Services**

**1. Purpose of Report**

- 1.1 A report was submitted to the April meeting of this Committee which flowed from the Ernst and Young (EY) recommendation that the Council should review its Whistleblowing Policy, and Anti-Fraud and Corruption Strategy, to ensure that they remain in line with good practice. This should also establish fraud related reporting arrangements to the Audit Committee.
- 1.2 This report provides an update on progress with this work.

**2. Recommendation**

**2.1 The Audit Committee is invited to note:**

- (1) progress with the Fraud Review; and**
- (2) the approval routes for updating the Fraud-related documents.**

**3. Background**

- 3.1 Members will be aware from the most recent Annual Audit Report considered by Council in February, of the recommendations made by our External Auditors to report fraud matters to this Committee. This has prompted the opportunity to critically review the Council's fraud investigation procedures, including the reporting of such matters to Members.
- 3.2 Senior Council officers had already conducted a "lessons learned" exercise on how fraud investigations are carried out within the Council. It was agreed that this would serve as a platform for further work, which would seek to identify and capture best practice.

**4. Considerations**

**Best Practice**

- 4.1 The Best Practice work focused on two strands:

- Engaging with EY with the potential to access knowledge from both their specialist Forensics Team and their range of experience with organisations across all sectors; and
- Circulating Councils in Scotland to understand their comparative procedures.

4.2 This exercise with EY and other Councils has proved constructive and helpful. Whilst considerable comfort was gained by the reassurance that much of existing practice matched best practice, there were areas to focus on as illustrated by:

- The need for effective corporate liaison on complex or sensitive fraud investigations;
- The core role of interviews and the need to ensure there is no conflict with potential disciplinary proceedings; and
- The need for regular checkpoints or case conference meetings to be introduced in complex or sensitive fraud investigations to ensure that an investigation is finalised at the point of allegations being substantiated or discounted.

### **Fraud Documents**

4.3 It has become apparent that the review and alignment of the documents is more complex and challenging than initially assumed.

4.4 Moreover, regard will need to be paid to the appropriate authorising entity for the various documents. The due governance process will also require certain documents to be routed via the Corporate Partnership Forum.

4.5 The table below sets out the intended way forward, with authorised changes reported to a future Audit Committee:

Document	Authorising Entity	Comment
Whistleblowing Policy	Corporate Partnership Forum, then Executive	To focus on alignment with the Anti-Fraud and Corruption Strategy.
Anti-Fraud and Corruption Strategy	Corporate Partnership Forum, then Executive	Review will update the Strategy to capture best practice.
Financial Regulations	Council	To focus on alignment with the Anti-Fraud and Corruption Strategy and Whistleblowing Policy.
Contract Standing Orders	Council	Review will update the Contract Standing Orders to refocus on requirements for Officers.

Code of Conduct for Members and Officers	Corporate Partnership Forum, then Executive	Review will update the Code to refocus on requirements for Officers.
Register of Interests and Gifts	Corporate Partnership Forum, then Executive	Review will update the Register of Interests and Gifts to refocus on requirements for Officers.

## Reporting to Members

- 4.6 Having regard to Best Practice gained from other Councils, it is suggested that a reporting framework could be constructed (recognising the inherent sensitivities and confidentiality involved with reporting fraud investigations), on the following basis:
- The need for the Audit Committee to have reassurance that appropriate procedures are in place which properly balance the protection of public monies; rights of employees; and protection of whistleblowers;
  - Flowing from the above, and also recognising the Appeals Committee dimension, Members do not need to know the specifics and individuals involved in a particular fraud investigation;
  - Twice yearly general reports on Fraud status will be provided to Audit Committee, with a greater frequency should circumstances dictate; and
  - Where particularly sensitive Fraud cases arise, and/or information on the case becomes public, Group Leaders will be briefed as well as the Audit Committee Chair.
- 4.7 Feedback from Audit Committee on the above framework will inform a more defined version.
- 4.8 In the meantime, performance and summary of work undertaken by the Corporate Fraud Team from April 2020 to June 2021 is set out at **Appendix 1**.

## 5. Consultation

Not relevant.

## 6. Implications

### Financial

- 6.1 Appropriate financial controls need to be in place to prevent / restrict fraud.
- ### Resources
- 6.2 Resources were directed by both the Council and the external auditors to investigate the fraud allegations.

## **Legal**

6.3 No comment.

## **Risk**

6.4 Fraud is recognised as a risk and internal controls are designed to prevent / restrict fraud and these are reviewed by both Internal and External Audit.

## **Equalities**

6.5 Not relevant.

## **Sustainability / Environmental Impact**

6.6 Not relevant.

## **7. Conclusions**

7.1 This update report is designed to provide Audit Committee with comfort that this important, sensitive, and complex matter is being progressed in a measured and coherent manner. A further update will be provided to a future meeting of Audit Committee.

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Director of Corporate and Housing Services

**Author: Bryan Smail, Chief Finance Officer**

**Date:** 11 June 2021

## **APPENDICES**

- **Appendix 1: Corporate Fraud Performance 2020/21**

### **List of Background Papers:**

**The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:**

- None.

## **CORPORATE FRAUD TEAM PERFORMANCE 2020/21<sup>1</sup>**

### **1. Background**

- 1.1 The corporate counter fraud resource is provided primarily by the Corporate Fraud Team (CFT) and the Internal Audit, Risk, and Corporate Fraud Manager. The principal purposes are to:
- promote a counter-fraud culture;
  - develop, maintain, and report on the Council's counter-fraud strategy;
  - investigate and report on allegations of fraud or other irregularity; and
  - co-ordinate and report on the Council's National Fraud Initiative activity.
- 1.2 This Appendix highlights the performance and activities of CFT during the financial year 2020/21 (providing earlier years' performance details to give context where relevant).
- 1.3 The work of CFT is carried out in accordance with Falkirk Council's Anti-Fraud and Corruption Policy, Whistleblowing Policy, and the Council's zero tolerance approach to fraud. In addition:
- Falkirk Council has a duty to protect public funds under Section 95 of the Local Government (Scotland) Act 1973;
  - Falkirk Council's Financial Regulations s24.1 state: The Chief Finance Officer will make arrangements for a continuous and effective Internal Audit of the financial and operations of the Council and, in doing so, will not be subject to the control or direction of any person;
  - Chief Officers of Falkirk Council are responsible for identifying and managing the risk of fraud and corruption as per s24.6 of Falkirk Council's Financial Regulations; and
  - Falkirk Council's Financial Regulations s24.14 state: The Chief Finance Officer will form an opinion on the process to be followed on notification of an irregularity. This decision will be made with due regard to the Council's Anti-Fraud and Corruption Strategy.
- 1.4 This report must be considered within the context of the impact of the Covid-19 pandemic which will continue to impact during the year. CFT resources will be directed to areas where there is the greatest need (for example, in relation to new and amended processes arising as a result of Covid-19). Audit Scotland's view is that the impact of the pandemic will last for the foreseeable future, therefore, 'further challenges are likely to emerge as we move to recovery from the acute phase of the pandemic'.

### **2. Fraud Prevention and Working in Partnership**

- 2.1 CFT are committed to the prevention, as well as detection, of fraud, theft, and wrongdoing against Falkirk Council. Pre pandemic CFT provided ongoing

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<sup>1</sup> From April 2020 to 11 June 2021

fraud prevention advice to services through 'toolbox talks' presented by the Corporate Fraud Investigator. 67 colleagues attended the sessions from January 2019 to March 2020. This is compared with 556 staff who attended the talks in 2018, totalling 623 staff having attended these talks since inception in 2018.

- 2.2 The Corporate Fraud Investigator gave virtual presentations as part of the HR Induction sessions during lockdown, which were attended by 108 new members of staff in December 2020 and March 2021. This compares with 61 members of staff who attended the physical quarterly HR sessions pre lockdown in October 2019 and March 2020.
- 2.3 CFT organised three partnership events with Police Scotland and Falkirk Council's Trading Standards team in February 2019, raising staff awareness of counterfeit goods at three separate sites (Inchyra Depot, Grangemouth; Municipal Buildings, Falkirk; and The Forum, Falkirk). In addition, CFT also organised Police Scotland to present five Drug Awareness information sessions to 100 Falkirk Council Housing Officers in January 2019 (20 staff per session).
- 2.4 CFT attend quarterly Scottish Local Authority Investigation Group meetings, as well as supporting collaboration with other Local Authorities to share best practice and raise awareness of current threats. This collaboration has been particularly beneficial in recent months in mitigating the risk of Covid-19 grant application fraud.

### **3. National Fraud Initiative**

- 3.1 The National Fraud Initiative (NFI) in Scotland is a counter-fraud exercise led by Audit Scotland and overseen by the Cabinet Office for the UK. It uses electronic information and techniques to compare and match data held about individuals by public bodies, including Falkirk Council, to identify the potential existence of fraud or error for further investigation and follow-up action.
- 3.2 CFT are responsible for looking at the 'Single Persons Discount' matches, which involves CFT comparing NFI matches against the Council's Council Tax system to identify potential false claims. The previous match (between 01 January 2018 and 31 January 2019) identified 201 cases where adjustments of £133,719 were made to council tax owed in 201 cases.
- 3.3 Falkirk Council has 2,420 matches for 2020/21. Once the Covid-19 restrictions are eased CFT will recommence their work to investigate these NFI matches.

### **4. Covid-19 Response**

- 4.1 Since March 2020 CFT has supported a number of elements of the Council's pro-active response to the increased risk of fraud, particularly in relation to the administration of Covid-19 related financial support to businesses and individuals.
- 4.2 The main Covid-19 business grant process fraud risks faced are:
  - First party application fraud (i.e. the risk that an applicant may misrepresent their circumstances to qualify for the relevant grant); and
  - Third party impersonation fraud (i.e. the risk that a third party may impersonate a business to extract grant funding from the Council). In line

with government guidance, local authorities may be held financially liable for overpayments associated with fraud and error if appropriate fraud controls are found not to be in place. Local authorities are expected to seek recovery of overpayments.

- 4.3 CFT has worked on a daily basis with the Revenues Team, and Business Growth and Investment teams, responsible for processing claims for the various funds. CFT have conducted counter-fraud sample checks on a significant proportion of claims submitted for each fund. Claims were referred to processing staff for further checking or information where necessary, or where concerns were identified prior to processing / payment being made.
- 4.4 The team shared information and intelligence received from other local authorities; the Scottish Local Authorities' Investigators Group (SLAIG); and the National Anti-Fraud Network (NAFN) on actual and suspected frauds relating to the funds with colleagues across the Council. This was to promote awareness, identify fraud 'red flags', and improve detection of potential fraud by processing staff.
- 4.5 These joint actions have protected the financial interests of businesses and individuals across the Council area, by helping to ensure that genuine grant claims were processed, checked, validated, and paid as quickly as possible; and fraudulent claims have been prevented and detected as far as was reasonably possible.
- 4.6 Details of CFT involvement at 11 June 2021 are as noted below:

Fund	Number of Payments	Value £	Checks
<b>Coronavirus Business Support Fund</b>	2,175	24,378,750	<p>CFT performed pre-payment checks on most of these cases to validate that:</p> <ol style="list-style-type: none"> <li>1. contact details matched with those held on file;</li> <li>2. bank statements were consistent with the business and showed relevant transactions;</li> <li>3. the business still appeared to be trading;</li> <li>4. the current ratepayer made the application; and</li> <li>5. the home address matched Council Tax records.</li> </ol>
<b>Taxi Drivers Fund</b>	456	684,000	<p>CFT carried out pre-payment checks on all cases to validate that:</p> <ol style="list-style-type: none"> <li>1. contact details matched with those held on file;</li> <li>2. bank statements were consistent with the applicant;</li> <li>3. the current license holder made the application; and</li> <li>4. the home address matched Council Tax records.</li> </ol>



<b>Strategic Framework Grants</b>	929	6,412,725	<p>CFT performed pre-payment checks on most of these cases to validate that:</p> <ol style="list-style-type: none"> <li>1. contact details matched with those held on file;</li> <li>2. bank statements were consistent with the business and showed relevant transactions;</li> <li>3. the current ratepayer made the application; and</li> <li>4. the home address matched Council Tax records.</li> </ol>
<b>Discretionary Fund Grant</b>	599	1,538,000	<p>CFT carried out pre-payment checks on all cases to validate that:</p> <ol style="list-style-type: none"> <li>1. bank statements were consistent with the business and showed relevant transactions; and</li> <li>2. the applicant had not made an application to any other grants covered by the Scheme.</li> </ol>
<b>Self-Isolation Support Grants</b>	326	163,000	<p>CFT performed pre-payment checks on all cases to validate that:</p> <ol style="list-style-type: none"> <li>1. bank statement details matched those provided on the application; and</li> <li>2. the address on the application matched Council Tax records.</li> </ol>

## 5. Corporate Fraud Investigation Team

- 5.1 Between April 2020 and June 2021, 26 new fraud allegation referrals have been received and reviewed. There were also 9 referrals that were still active and carried forward from 2019/20. Of those, only 2 remain open (1 of which is awaiting a Police Scotland response).
- 5.2 A number of enquiries were also made into potential fraudulent applications in relation to the Covid-19 business grants, with one case reported to Police Scotland.
- 5.3 Details of new referrals in 2020/21 are overleaf:

<b>Subject of Allegation and Referral</b>	<b>Source</b>	<b>Number of Referrals</b>	<b>Action Taken</b>
Potential Fraudulent Claims to Social Welfare Fund Applications	Welfare Team	5	Risk scored and initial investigatory work done, but are now closed.
Council Tax Single Person Discount Fraud	Online Fraud Referral / Anonymous Letters	13	Outstanding due to Covid-19 restrictions. Will be actioned once restrictions are lifted.
Whistleblowing Investigations	Whistleblowing Hotline (via calls, letters, emails)	8	5 investigated and closed. 3 ongoing.

5.4 CFT work in partnership with a number of internal and external agencies. The team have received information requests from Police Scotland to assist in the prevention and detection of crime. Requests have also been received from the Council's Homeless Department to assist in the housing of applicants, and from Housing and Revenues Staff to assist in Housing Benefit and Single Person Discount queries, and to assist in the allocation of Council properties.

5.5 Information requests received in 2020/21 are as follows:

<b>Source of Information Request</b>	<b>Number of Requests</b>
Requests from Police Scotland	490
Falkirk Council Homeless Section	530
Falkirk Council Revenues Section	95
Falkirk Council Housing Department	110