

Agenda Item No:

Report to: Audit Committee

Date of Meeting: 25 September 2014

Report Title: Transfer of Housing Benefit Investigations to the Department for Work and Pensions Single Fraud Investigations Service (SFIS)

Report By: Peter Grace
Head of Finance

Purpose of Report

To inform the committee of the actions planned following the transfer of Hastings BC Investigators to SFIS.

Recommendation(s)

- 1. That the report be accepted.**

Reasons for Recommendations

The Chancellor of the Exchequer announced in his autumn statement on 5 December 2013 the formation of a single fraud investigation service, covering the totality of welfare benefit fraud. The announcement confirmed that SFIS will be launched in the Department for Work and Pensions (DWP) as a single organisation and Hastings BC has been given a transfer date of 1 November 2014.

The arrangements and capacity to prevent and detect fraud against council monies is a significant governance aspect.

Introduction

1. The responsibility for investigating Housing Benefit fraud is to transfer from local authorities to SFIS in entirety by 31 March 2016. Hastings Borough Council is to transfer over on 1 November 2014.
2. The purpose of SFIS will be to investigate Universal Credit fraud when it is introduced. Universal Credit is a new single monthly payment for people in or out of work, which merges together some of the benefits and tax credits that are paid now. Universal Credit will replace:

Income-based Jobseeker's Allowance
Income-related Employment and Support Allowance
Income Support
Child Tax Credit
Working Tax Credit
Housing Benefit
3. Notably, SFIS have made it clear that Council Tax Reduction fraud is not in their remit.

Risk Management

4. The Council has divided the risks associated with the transfer into 2 sets. The first set of risks relate to the change management programme of transferring the Investigation staff across together with work in progress. The risk management action plan relating to these risks is given at appendix A. The other set of risks relate to the council after the transfer has taken place. These are given at appendix B.
5. The key issues facing the Council once the Investigators have transferred are:
 - (1) Dealing with a significant volume of enquiries - needing to protect the Council's reputation especially in the absence of guaranteed or sustainable funding.
 - (2) Preventing, detecting and deterring Council Tax Reduction fraud.

Change Management Programme involving the transfer from Hastings BC of staff and work in progress across to SFIS

6. All Investigations staff have been consulted. A case migration workshop has been held to set out the procedure for a safe and secure transfer of work in progress across to SFIS and a Service Provision meeting to agree a protocol between the council and SFIS post 1 November 2014 is arranged for 30 September 2014.
7. The transfer is being conducted in line with Cabinet Office Statement of Practice (COSO P) guidelines. This is the legal platform to enable the transfer by way of a Legislative Transfer Scheme as provided for by Section 38 of the Employment Relations Act 1999. Section 38 provides the Secretary of State with legislative

power (through regulations laid in Parliament) to transfer employees in scope via a Statutory Staff Transfer Scheme.

8. Whilst under COSoP, Transfer of Undertakings Protection of Employment (Tupe) does not apply, DWP have agreed that the transfer nationally will be "tupe-like".
9. The contractual terms for the Investigations staff transferring are as good as they are currently on.
10. Whilst there is still to be a discussion on Service Provision, the preparations of getting files in good order to transfer across and the staff transfer arrangements are progressing well and no significant problems are anticipated.

Risks to the Council after the Investigators have transferred to SFIS on 1 November 2014

Current situation for Hastings BC with responsibility for investigating Housing Benefit Fraud

11. Hastings Borough Council Investigators investigate Housing and Council Tax Benefit Fraud. In 2013/14 the service:

Handled about 500 telephone calls and emails from the public reporting fraud to their local authorities

Carried out around 500 risk assessments following these referrals

Looked at 3,070 National Fraud Initiative matches

Investigated 334 fraud cases

Responded to about 400 enquiries from other agencies

Assisted the Police with about 1,000 investigations

Applied 24 sanctions for Rother DC and 22 sanctions for Hastings BC

12. In Hastings BC alone, 22 cases of Council Tax Benefit fraud were detected with a combined value of £21,002. The lowest value of Council Tax element identified for recovery was £62 and the highest amount was £9,767. The majority of other fraud payments were around £300.
13. This is a considerably lower figure than was identified as Housing Benefit fraud and whilst it was generally speaking, a by-product from the investigation of Housing Benefit fraud, it would take a similar level of effort to investigate it as for 22 Housing Benefit fraud cases if it were to be investigated separately. This is to say that there would have to be 22 Interviews under caution arranged, 22 enquiries with employers to ascertain salary paid and hours worked etc.

Anticipated situation for Hastings BC with responsibility for investigating Council Tax Reduction Fraud only

14. The anticipated workload left for Hastings BC to discharge without the Housing Benefit and Council Tax Benefit Investigations team is as follows:

Around 350 telephone calls and emails from the public

About 1,700 National Fraud Initiative matches every 2 years

About 100 enquiries from other agencies including the DWP

Around 600 enquiries from the Police

About 20 cases of Council Tax Reduction Fraud to be dealt with

Specific Risks to Hastings BC post 1 November 2014

15. The workload identified in paragraph 14 is a considerable amount of work for absorption by existing council services.
16. The Council does not have anyone who is sufficiently qualified to carry out Police and Criminal Evidence (PACE) compliant taped interviews for Interviews Under Caution or that is Criminal Procedures Investigation Act (CPIA) (1996) compliant. This would be essential if the Council wants to issue formal cautions or administrative penalties or exceptionally, prosecute for Council Tax Reduction fraud.

Risk Mitigation solution choices available

17. Hastings BC was named in a bid across all East Sussex councils for monies from the Department for Communities and Local Government (DCLG) who have set aside £16.7m nationally to combat fraud. If this bid is successful, we would gain access to a shared resource but not shared resources to undertake investigations or liaison work with DWP or the Police. The expertise to investigate to CPIA standard would be there but the governance arrangements are not known and it is likely we would have to contribute for cases we ask to be investigated.
18. A second bid (Capacity Grid) has been submitted by a consortium of 13 councils including Hastings BC for funding that will enable systems for better intelligence data. If this bid is successful, it would inform us of investigations worth undertaking.
19. Retain an Investigator. This would cost £33,609 in salary alone. This is difficult to justify against a level of Council Tax Reduction fraud of around 22 cases worth £21,000 p.a. although the Investigator could greatly assist with dealing with the National Fraud Initiative matches.

20. Investigate buying in the service from Rother DC. Rother DC are retaining a Fraud Assistant. However, the Fraud Assistant is not qualified and therefore unable to do PACE interviews or has Authorised Officer Powers, for example, to obtain bank statements and so this doesn't provide a complete solution. Discussions with Rother have commenced to identify an enhanced solution.
21. Arrange for a member of the Council Tax team to be trained up sufficiently to conduct investigations into Council Tax Reduction abuse. This would be likely to take around 12 months to achieve and impact upon that individual's workload.
22. Absorb the residual workload and deal with any Council Tax Reduction as "Compliance". This is similar to the way we deal with Single Person Discount overpayments. The money is recovered but the person doesn't face any further action or formal sanction.
23. Whilst SFIS have made it clear that Council Tax Reduction fraud is the responsibility of the local authority to investigate because it is not a welfare benefit, it is believed that they are re-considering their position on this. It is probable that SFIS will provide local authorities with good referrals for suspected Council Tax Reduction fraud. An option is to wait for this and then implement it alongside the strategy described in paragraph 22 as the main source of reliable referrals.

Economic/Financial Implications

24. Despite the transfer taking place part way through the 2014/15 financial year, there has been no reduction to the Housing Benefit Administration Grant. There will be a budget saving of about £26k in Investigators' salaries for 2014/15.
25. The Housing Benefit Grant will be substantially reduced in future years. The percentage reduction is still being decided by the DWP, LGA and DCLG.
26. The DWP will provide some 'New Burdens' funding to offset some of the cost of appointing a single point of contact for queries. The amount has yet to be announced although it is expected to be small.
27. The DWP is considering passing back any Administration Penalties as a result of SFIS investigations into Housing Benefit Fraud. This is of the order of £5k per annum.
28. In summary, the estimated additional costs are as follows:

| | 14/15 (£000's) | 15/16 (£000's) | 16/17 (£000's) | 17/18 (£000's) |
|----------------------------|-------------------|-------------------|-------------------|-------------------|
| Fraud team savings | (43) | (104) | (104) | (104) |
| Less recharge to Rother DC | 17 | 42 | 42 | 42 |
| Estimated Grant loss | 0 | 66 | 83 | 83 |
| Net cost/(saving) | (26) | 4 | 21 | 21 |

29. There is likely to be an additional cost of dealing with the remaining workload that won't be fully covered by the 'New Burdens' funding.

Recommended Solutions

30. Hastings BC has a zero tolerance approach to all attempted fraud against it.

31. The recommended solutions as part of a revised Benefit Fraud Strategy are:

- (i) Review resources once the outcome of the 2 bids is known.
- (ii) Continue discussions with Rother DC, clarify resource requirements, and identify which aspects of the residual workload can be absorbed internally.

Wards Affected

None

Area(s) Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

| | |
|---------------------------------------|-----|
| Equalities and Community Cohesiveness | No |
| Crime and Fear of Crime (Section 17) | No |
| Risk Management | Yes |
| Environmental Issues | No |
| Economic/Financial Implications | Yes |
| Human Rights Act | No |
| Organisational Consequences | Yes |
| Local People's Views | No |

Background Information

Appendix A - Risk Register (prior to transfer)
Appendix B - Risk Register (post transfer)

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