


Non-Executive Report of the: Audit Committee 23rd September 2015	 TOWER HAMLETS
Report of: Zena Cooke – Director of Resources	Classification: Unrestricted
Single Fraud Investigation Service- Position Update	

Originating Officer(s)	Tony Qayum, Corporate Anti-Fraud Manager
Wards affected	All wards

SUMMARY

This report provides Audit Committee with an update of the arrangements for the transfer of existing Housing Benefit Fraud investigation Services to the DWP. The programme of rollout is largely complete, with London Borough of Tower Hamlets resources transferring in February 2016, and complete finalisation of the national scheme by March 2016.

RECOMMENDATION

The Audit Committee is asked to note the update on the creation of a Single Fraud Investigation Service.

The Audit Committee is asked to consider the resource gap the transfer will create and provide support in principle to minimise the exposure to abuse by resourcing the shortfall from Council funds.

1. REASONS FOR THE DECISIONS

- 1.1 To comply with the reporting requirements of the Audit Committee's Terms of Reference.

2. ALTERNATIVE OPTIONS

- 2.1 There are no specific alternative options.

3. DETAILS OF REPORT

- 3.1 As part of the Government's ongoing commitment to welfare reform the concept of a Single Fraud Investigation Service for the examination and review of all welfare related benefits was developed with a series of 'pilot' authorities in various parts of the country being established. Following the early success of these pilots the DWP wrote to all Local Authorities in March 2014 setting out the approach to the transfer of Housing Benefit Fraud Investigation teams advising that the process would be outlined in a paper setting out the manner of the transfer, employment rights and clarity about how the scheme would be rolled out.
- 3.2 Each authority was asked to complete a questionnaire of 31 key questions covering resource and performance statistics and the percentage of posts that worked exclusively on Welfare related investigations as against corporate fraud work.
- 3.3 The return gave the DWP an initial indication of work load and resources on which to base their statistics and likely transfer of resource to them.
- 3.4 On 31 March 2014 a 'Roadshow' was organised by the DWP to provide more detail on the transfer of resource and each authority was requested to send up to two representatives from the Housing Benefit Fraud Investigation Service, one to be an operational investigator. The DWP undertook such events across the country and each roadshow would be represented by a cross section of authorities.

4. CONSULTATION WITH HUMAN RESOURCES

- 4.1 All information associated with this transfer has been communicated to the Head of HR who has informed Staff Side as part of ongoing communications. Legal Services have been kept informed from an Employment Law perspective, and in particular, an indication from the DWP that TUPE may not apply.

- 4.2 This has been queried by UNISON who represent many of its members working under the auspices of the DWP Benefit Investigation Service. Local negotiations have been held with each Local Authority where those identified to be in scope have specific issues to resolve such as access to a local DWP site for future work or where special arrangements such as Travel Allowances, Parking Permits and other unique benefits apply.
- 4.3 Consultation with HR started on 13 August 2015 and with management on 17 August 2015. A meeting of staff, HR and the Trade unions is planned for the 10 September to consider contract terms and conditions.
- 4.4 The transfer for LBTH is still planned for February 2016.

5. RESOURCES GOING FORWARD

- 5.1 There will be areas of Fraud investigation which are presently 'by products' of Housing Benefit Fraud Investigations that now require consideration for future resourcing.
- 5.2 These include Council Tax Investigations – Council Tax Reduction Scheme, Single Person Discount Investigation and Student status discount. In addition pro-active work on NNDR will need to be considered.
- 5.3 At present there is no capacity within existing resources to pick this work up although there is a recognition both within the Council and more widely- Protecting the Public Purse 2014, Teicaff London centric Benchmarking (undertaken by the former Counter Fraud Specialists of the Audit Commission who authored the PPP) that these areas are ones with an increased fraud profile and need to be tackled.
- 5.4 Given this volume which has the potential for further growth the resource need to tackle this would be two full time equivalent posts.
- 5.5 Consideration has therefore been given to likely future resource needs and People Board's endorsement will be sought to resource the areas highlighted above and other proactive fraud activities in recognition of the changing landscape of fraud which is constantly changing with emerging risks becoming clearer. The business supporting this request is based on an "invest to save" principle, the financial cost of the team more than paying for itself from Anti-Fraud / audit activities (notional and actual).
- 5.6 The Homeless Persons Unit currently hold Anti-Fraud resources to consider infringements and it is suggested that for a full and effective Corporate approach to Anti-Fraud work these resources be absorbed within the existing Corporate Anti-Fraud team thus ensuring all Anti-

Fraud investigation is maintained in one unit with the cross working and intelligence gathering it offers being maximised.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There are no financial implications as a result of the recommendations within this report. However, the report does highlight the need to consider committing two FTE posts to address the residual issues identified in section 5 above. Should these be approved, it will be on an invest to save basis, thus there should be no impact on Council resources.

7. LEGAL COMMENTS

- 7.1 The Welfare Reform Act 2012 established the framework for the transfer of existing Housing Benefit fraud investigation services to the Department for Work and Pensions, as part of an array of reforms including the amalgamation of benefits to create the Universal Credit and the introduction of benefit caps. The main objective of the creation of the Single Fraud Investigation Service was to ensure that all types of social security and Tax Credits fraud would be investigated according to a single set of guidance and priorities.
- 7.2 The Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE 2006 Regulations") provide that when a business or public service transfers from one organisation to another, employees transfer to the new employer under identical terms and conditions of employment.
- 7.3 The report indicates that the Government has deemed that the TUPE 2006 Regulations will not apply. This is because the transfer will be undertaken under regulations issued under section 38 of the Employment Relations Act 1999. The Transfer of Undertakings (Protection of Employment) (Transfer of Staff to the Department for Work and Pensions) Regulations 2014 (The "DWP Regulations") provide for similar protections of the employment terms and conditions as provided in the 2006 TUPE regulations.
- 7.4 The DWP Regulations concern the treatment of persons employed by authorities administering housing benefit or council tax benefit (or employed by persons providing services to, or authorised to exercise functions of, such authorities). The Regulations apply to employees who are employed for the principal purpose of carrying out activities connected with the detection and investigation of offences relating to those benefits. They ensure that, if the function of carrying out those activities by a particular authority or service provider is transferred to the Secretary of State, those employees will have protection similar to that provided by certain provisions of the TUPE Regulations.
- 7.5 Regulation 3 is equivalent to regulation 4 of the TUPE Regulations and provides for the employees to be transferred to the employment of the Secretary of State. Regulation 4 is equivalent to regulation 7 of the TUPE Regulations and provides that those employees are to be treated for the

purposes of Part 10 of the Employment Rights Act 1996 (unfair dismissal) as unfairly dismissed if the sole or principal reason for the dismissal is the transfer. Regulation 5 applies the provisions of regulation 10 of the TUPE Regulations in relation to pensions so as to exclude certain rights and liabilities in relation to occupational pension schemes.

7.6 The Report also confirms that consultation with staff and Unions is also underway.

8. ONE TOWER HAMLETS CONSIDERATIONS

8.1 There are no specific One Tower Hamlets considerations.

9. BEST VALUE (BV) IMPLICATIONS

9.1 The effective investigation of allegations of Fraud and Corruption complies with the councils Best Value duty to manage its resources effectively and ensure that the three E's of Economy, Efficiency and Economy are preserved in order to deliver effective services to the public we serve.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

10.1 There are no specific SAGE implications.

11. RISK MANAGEMENT IMPLICATIONS

11.1 The need to manage resources effectively and identify fraud and abuse is a cornerstone in ensuring that risks to loss are effectively managed and the outcome for the last financial year demonstrates the Council's commitment to foster an Anti-Fraud culture.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

12.1 Effective Anti-Fraud arrangements the Council contributes to a reduction in crime and offers good practice in resolving scope for abuse of assets and systems.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- NONE

**Local Government Act, 1972 Section 100D (As amended)
List of "Background Papers" used in the preparation of this report**

- NONE

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Officer contact details for documents:

- N/A