

**Report to: Governance Select
Committee**

Date of meeting: 4 April 2017



Portfolio: Governance and Development Management (Councillor R Bassett)

Subject: Governance Directorate – Review of Enforcement Activities

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Recommendations/Decisions Required:

That the Committee note the scope of the enforcement activities of the Corporate Fraud and Planning Enforcement Teams, as part of the service portfolio of the Governance Directorate.

1. Enforcement activity across the Governance Directorate consists of the Corporate Fraud Team under Martin Crowe (Corporate Fraud Manager), which is part of the Internal Audit service, and Planning Enforcement under Jerry Godden, which is part of Development Management. Both officers will be in attendance at the meeting.
2. The main purpose of the Corporate Fraud team is to provide independent and professional investigations into all aspects of fraud affecting the Council, preventing fraud and abuse and taking fair and consistent action against those committing offences.
3. Planning Enforcement investigates alleged breaches of planning legislation such as unauthorised buildings and uses, including development not in accordance with approved plans that have been granted planning permission. It also assists the Tree and Landscape section in prosecutions for destruction and damage to protected trees and the Heritage Section with unauthorised works to Listed Buildings.

Corporate Fraud

4. The team consists of a Corporate Fraud Manager, Senior Corporate Fraud Investigator and two Corporate Fraud Investigators, all of whom are qualified counter fraud investigators.
5. Since its inception, the team has taken both proactive and reactive approaches to antifraud work and looks at every referral made whether by a member of the public or member of staff with a view to risk assessment and where appropriate, investigation. The team is robustly proactive in the prevention and investigation of fraud within a number of areas identified as “high risk”, particularly in the area of social housing culminating in several policy changes and revisions to processes etc.

6. One particular area where the CFT is seeing most success is in the area of Right to Buy (RTB) applications. The team (working in conjunction with the Home Ownership Team) have developed a policy of vetting 100% of applications developing assurance that tenancies are being operated correctly and that the Council (via the RTB scheme) are not being used as a vessel for money laundering.
7. This policy has meant that since April 2016 to date, twenty RTB applications have been stopped and / or withdrawn due to investigation team involvement. A number of these have been identified as having significant issues over the origin of the funding (giving rise to money laundering suspicions). As a result of this, approximately £1.5 million of potential RTB discount has been stopped. Furthermore, these 20 properties continue to remain as valuable public assets providing future revenue streams (in the form of rent continuing to be paid) to the council of approximately £1million.
8. Other investigations into suspected housing frauds since April 2016 have resulted in 11 council properties being recovered in order that they can be re-let to priority cases on the waiting list saving approximately £200,000.
9. The Corporate Fraud Team have been/are involved in a number of criminal prosecutions since April 2016. A Waltham Abbey resident was successfully convicted in July 2016 for fraud relating to the Local Council Tax Support Scheme whilst there are 3 active prosecutions currently at various stages of progress through the Courts. The prosecutions relate to various fraud offences and illegal subletting of a Council tenancy. Furthermore, all 3 cases are also subject to action under The Proceeds of Crime Act for issues such as money laundering and the Council will be pursuing claims for compensation / confiscation under the Act.
10. A Formal Caution was also administered to an Ongar resident for fraud connected to a Right to Buy application.
11. Due to the often complex nature of both criminal investigations and subsequent court action, it is important to note that these cases may take months to both investigate and prosecute (particularly in cases such as at the 3 previously mentioned where “not guilty” pleas have been entered and the case progresses to Crown Court trial).
12. In addition to the above, the Corporate Fraud Team have also undertaken a number of other investigations including 2 staff related investigations, one of which resulted in the dismissal of a staff member for gross misconduct. We have also undertaken a Standards Investigation (for which a fee was received) with another currently in the pipeline and are currently providing Broxbourne Council with a Proceeds of Crime investigation on a paid for basis.
13. Members of the public are continuing to be encouraged to report fraud and an advertising campaign has been undertaken whereby “know a cheat in your street” leaflets have gone out in every Council Tax and Business Rates bill whilst the team is continuing to provide training and advice to external organisations and areas showing the potential for joint working or shared service arrangements are continuing to be explored.
14. The Corporate Fraud Team has recently begun an informal joint working arrangement with Chelmsford City Council relating to the sharing of antifraud staff and resources and similar arrangements are currently being explored with at least a further 2 authorities in Essex. The Corporate Fraud Team, have in the past 12 months also founded The Eastern Corporate Fraud Group, which is aims to bring together counter fraud professionals from local authorities in Essex, Suffolk and Norfolk in a meaningful forum to discuss and promote best practice, form agreements and partnerships for

information sharing and offer support and resources to carry out investigations etc. 3 successful meetings have already been held at North Weald Airfield with plans to move the group forward in the next 12 months by looking at opportunities for cross authority training etc.

Planning Enforcement

15. The Team consists of a professionally qualified Principal Planner, a Senior Enforcement Officer (also professionally qualified as a planner) who deal with the more complex enforcement investigations and any enforcement appeals submitted, three Enforcement Officers who investigate the higher volume of complaints received and an Administrative Assistant who supports this teams work. All are full time positions.
16. Its roles and responsibilities are laid out in the Council's adopted Local Enforcement Plan, which is a detailed document approved by this committee and available on the Council's website at:

<http://www.eppingforestdc.gov.uk/residents/planning-and-building/planning-development-control/planning-enforcement>
17. Since April 2016, they have investigated 696 received complaints of alleged planning breaches, all on different sites and each one has been visited by officers within 2 weeks of the complaint being registered. Many are resolved before action needs to be taken or simply either do not require planning permission or the alleged complaint is not taking place.
18. Through the Council's Legal Section, in this time period they have served 38 Enforcement Notices, which by a set time after an initial warning period, require the owner of the land/building to take action to put a breach right. It is not unusual that these are often appealed against to the Planning Inspectorate (PINS) in Bristol, which is decided upon by an independent Planning Inspector and can be costly, if PINS decided that evidence has to be heard on oath and therefore needs to be a public local inquiry, which usually requires a Barrister to assist arguing the Councils case.
19. Also since April 2016, there have been 9 Enforcement Notices appealed against and heard by the Inspectorate, all of which were dismissed and upheld in favour of the Council.
20. It should be noted that prosecution is a last resort, as the planning system in the interest of fairness does require the planning merits of a case to be considered retrospectively through the planning application process, unless the breach in the professional opinion of officers would not be resolved this way or by having relevant conditions attached to a planning permission.
21. If an enforcement case has been proved in the courts or in extreme cases before court action, the Council can take Injunctive or Direct Action to ensure compliance. In the last year, there have been 4 prosecutions mounted for breach of enforcement notices resulting in findings of guilt and fines as follows:
 - Spain's Hall, Willingale, which was a Listed Building offence fine of £10,000;
 - The Old Rectory, Willingale, Listed Building offences totalling £12,000;
 - Browning's Farm House, Chigwell – unauthorised building – £2,400;
 - Crown Close, Sheering – Change of use - £2,800; and
 - 26A Maypole Drive, Chigwell – change of use of building – £1,000.
22. There has been a further 3 prosecutions for breach of Tree Preservation Orders that

has resulted in findings of guilt and fines of an average of £1,000.

23. Due to the legislative background some cases can take many months to resolve. Even in simple cases, a period of 6 – 8 months from when the complaint is received is common, whilst in some quite complex contested cases, it may take up to three years to gather suitable evidence.
24. Across the Council, the Team works collaboratively for example with Housing and with Environment and Street Scene as well as with external agencies such as Epping Forest and the Environment Agency. The team are always looking for new ways to take enforcement investigations forward and have recently pioneered the introduction of a Council owned Remotely Piloted Air System (also known as a drone) which has already been deployed on enforcement cases. It has been used overtly and in accordance with our licence and adopted policy.

Summary

25. Both sections rely on completely different legislation to enforce and require specialist knowledge and information gathering. Both are ably supported by the Council's Legal Section and in the case of Planning Enforcement, they work closely with the Development Control planning application case officers in |Development Management.
26. The Committee are therefore requested to note the work they are doing utilising the resources at hand. There is a yearly Planning Enforcement training provided by Jerry Godden for Members, which this year is on Friday 30 June 2017.

Resource implications: None for this report.

Legal and Governance Implications: None

Safer, Greener and Cleaner Implications: None for this report.

Consultation undertaken: None required

Background Papers:

- Council's Local Enforcement Plan
- Town and Country Planning Act 1990
- The Fraud Act 2006
- The Prevention of Social Housing Fraud Act 2013
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement)(England) Regulations 2013
- The Proceeds of Crime Act 2002

Impact Assessments:

Risk Management *None for this report.*

Equality *No equality implications arise from this report.*