

# Policy and Resources Committee

23<sup>rd</sup> September  
2015

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

## Counter Fraud Team – Council Tax & Business Rates

|   |  |
|---|--|
| <b>Final Decision-Maker</b>             | Policy and Resources Committee               |
| <b>Lead Director or Head of Service</b> | Director of Environment and Shared Services  |
| <b>Lead Officer and Report Author</b>   | Head of Revenues and Benefits Shared Service |
| <b>Classification</b>                   | Non-exempt                                   |
| <b>Wards affected</b>                   | All  |

### **This report makes the following recommendations to the final decision-maker:**

1. To approve, subject to the agreement of Kent County Council, Tunbridge Wells and Swale Borough Councils, the continuation of a Counter Fraud Team to reduce the level of customer fraud and error in relation to council tax and business rates.
2. To authorise the Head of Revenues and Benefits Shared Service to make the necessary operational arrangements as set out in this report.
3. To delegate authority to the Director of Environment and Shared Services to negotiate and subject to reaching satisfactory terms enter into a collaboration agreement with Kent County Council, Tunbridge Wells and Swale Borough Councils for the continued delivery of Counter Fraud Service for council tax and business rates.
4. That a review of the service is undertaken in 18 months with a further report to be provided to the Committee detailing the impact of the service on Fraud and Error.

### **This report relates to the following corporate priorities:**

- Great People
- Great Place
- Great Opportunity

### **Timetable**

| <b>Meeting</b>                 | <b>Date</b>                     |
|--------------------------------|---------------------------------|
| Policy and Resources Committee | 23 <sup>rd</sup> September 2015 |

# Counter Fraud Team – Council Tax & Business Rates

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 Maidstone, Tunbridge Wells and Swale BC (the councils) award council tax and business rates discounts/exemptions totalling £72.7 million per annum. This report and supporting business case outlines how the councils, Kent County Council, Kent Police and Kent Fire & Rescue services can work together to minimise losses through customer fraud and error and maximise the collection rate.

1.2 The proposal includes provision for;

- Joint funding for a dedicated team of fraud investigators
- A programme of proactive exercises to identify and detect fraud
- A responsive service to investigate reported allegations of fraud
- Fraud awareness training for front line staff.

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## 2. INTRODUCTION AND BACKGROUND

2.1 The localisation of council tax support and business rates increased the financial risk to the councils and preceptors. The income represents a significant amount of the council's budget and there is a direct implication and benefit in monitoring the award of exemptions and reliefs.

2.2 To address that risk a business case has been developed based on activity to reduce fraud and error across the following areas.

- Council Tax Support (Benefit Awards)
- Council Tax Single Person Discounts
- Council Tax Disregards, Exemptions and Disabled Relief
- Business Rates - Small Business Rate Relief
- Business Rates – Charity and Discretionary Relief
- Business Rates Exemptions

2.3 To undertake that work the council will require a team of suitably skilled and experienced investigation staff, with an initial establishment of 5.5 FTE to complete the proposed work programme over a two year period.

2.4 From March 2016 responsibility for the investigation of housing benefit fraud will TUPE transfer from the Council to the Department for Work and Pensions, Single Fraud Investigation Service. The transfer of function provides for 4 of the 6 benefit investigation staff employed across the MKIP partners to transfer to DWP in line with TUPE Regulations. The proposed change in the provision of service and resulting transfer is seen as a relevant transfer under Transfer of Undertaking

(Protection of Employment) Regulations 2006 (TUPE). TUPE is designed to protect the rights of employees in a transfer situation enabling them to enjoy the same terms and conditions, with continuity of employment, as before the transfer. However, if the Council agrees to option 3 in the report then staff will not be required to TUPE transfer to SFIS.

2.5 The team currently operates at a total annual cost of £237,000 (excluding corporate recharges) with £83,000 of that cost met by Maidstone BC. The council has covered this cost through an administration grant from DWP, which is expected to end on the transfer to SFIS. The exact date and amount of reduction in grant is still to be confirmed.

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### **3. AVAILABLE OPTIONS**

3.1 Option 1 (do nothing) – The council could try to manage the increased financial risk associated with the localisation of council tax support and business rates without any specific resource to address the risk of customer fraud and error.

With limited capacity and experience outside of the benefit fraud team, the council would be unable to pro actively investigate potential fraud.

Option 2 – The council could explore future opportunities to work collaboratively with the Single Fraud Investigation Service (DWP).

The DWP are not currently prepared to investigate Local Authority fraud, however, should an MKIP Team be established (option 3) it will look to develop opportunities for joint working with the DWP Team based in Maidstone.

Option 3 - (proposed option) – The council could seek to retain and fund the existing team of specialist investigators and widen the scope of their activity to include other areas of council tax and business rates administration. However, should the service later be decommissioned or funding from partners cease there could potentially be redundancy costs if other suitable alternative employment is not found for the staff.

It is proposed that the cost of the service (£207,000 excluding corporate recharges) is shared between the councils and preceptors based on the expected benefit to each organisation. That would represent a cost to Maidstone BC of £19,519 and provide a projected income of £64,362.

### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

4.1 The transfer of the housing benefit fraud function to SFIS creates both a risk and opportunity to the councils. With the administration of housing benefit and council tax support being directly linked the councils have in effect been able to “police” the two systems at the same time. With the removal of housing benefit and potentially the investigation resource that was deployed with it, this will leave council tax support and therefore council tax exposed to fraud with no identified resource to investigate or deter fraud.

- 4.2 SFIS also creates an opportunity in releasing a team of experienced specialist staff, with good local knowledge, to both manage the ongoing risk within council tax support and deliver capacity to expand their work into other areas both within the council tax and business rates system.
  - 4.3 The value of discounts and exemptions (see appendix 1) is significant and the risk of customer fraud and error high. As such it is incumbent on the councils to provide proper resources to address that risk. In maintaining and funding locally the continued operation of the councils' fraud team the councils would have the resources available to mitigate that risk and reduce the loss caused through fraud and error.
  - 4.4 An example of the service plan for the next 2 years is provided within appendix 1, along with estimated cost and benefits.
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## **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The councils have obtained agreement in principle from Kent County Council (also acting behalf of the Police and Fire and Rescue) to contribute to the cost of operating the service.

Further details regarding the share of cost for each partner is provided within appendix at appendix 1.

- 5.2 The Head of Revenues and Benefits has discussed the proposal with fraud investigation staff employed across the councils who have expressed a preference to remain employed by the councils rather than transfer to DWP. If approved a formal consultation process would be undertaken regarding the proposed change to the function of the team.
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## **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 Subject to the approval of the relevant committees of each council, the councils will formalise the agreement with Kent County Council through a collaboration agreement and commence formal consultation with staff.
  - 6.2 The operational practices of the team will be amended and training delivered regarding the wider scope of investigations to be undertaken by the team.
  - 6.3 The service will agree key performance measures and outcomes to be reported to partners to track delivery.
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## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue                                 | Implications  | Sign-off                         |
|---------------------------------------|---|----------------------------------|
| <b>Impact on Corporate Priorities</b> | Effective operation and collection of council tax and business rates cuts across the council's priorities by providing the revenues necessary to progress improvements.   | Head of Revenues and Benefits    |
| <b>Risk Management</b>                | Fraud in council tax support and business rates exemptions and discounts presents a risk to the Council in protecting its income streams, remaining a credible partner for precepting authorities and the wider public perception of the Council(s) as valuing good governance and pursuing those that would seek to fraudulently exploit its resources. Establishing and maintaining an effective counter fraud capability is a key control used to mitigate the likelihood of these risks becoming realised. Risks arising from the creation and operation of the team will be managed in line with the Council(s)' risk management policies. | Head of Internal Audit           |
| <b>Financial</b>                      | <p>The proposals contained within this report will require funding of £19k. This represents a proportionate share of the cost of £207k (excluding corporate recharges) and is considered to represent value for money.</p> <p>Should the council not TUPE transfer staff to the DWP and later decommission the service, it would be liable for redundancy costs (jointly with partners) estimated at £87k.</p>  | Section 151 Officer              |
| <b>Staffing</b>                       | <p>The transfer of housing benefit fraud investigation function will provide for the transfer of staff in line with Tupe Regulations.</p> <p>If staff are retained to investigate other areas of fraud, it will represent a change in their terms and conditions requiring consultation with trade unions and staff affected.</p>   | Head of Human Resources          |
| <b>Legal</b>                          | The Council has powers within the Council Tax Reduction Schemes   | Estelle Culligan, Deputy Head of |

|  |  |                               |
|--|--|-------------------------------|
|  | (Detection of Fraud and Enforcement) (England) Regulations 2013 and Theft Act 1978 to investigate and prosecute council tax and business rates fraud.<br>The legal team will assist with the preparation of a collaboration agreement. | Legal Partnership             |
| <b>Equality Impact Needs Assessment</b>      | No impact  | Head of Revenues and Benefits |
| <b>Environmental/Sustainable Development</b> | No impact  | Head of Revenues and Benefits |
| <b>Community Safety</b>                      | No impact  | Head of Revenues and Benefits |
| <b>Human Rights Act</b>                      | No impact  | Head of Revenues and Benefits |
| <b>Procurement</b>                           | No impact  | Head of Revenues and Benefits |
| <b>Asset Management</b>                      | No impact  | Head of Revenues and Benefits |

## 8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

Appendix 1: Business Case - Combating Fraud in Council Tax & Business Rates

## 9. BACKGROUND PAPERS

None.