

## **AUDIT COMMITTEE – 22 MARCH 2024**

### **HOUSING MAINTENANCE FRAUD MATTER**

#### **1. Introduction**

- 1.1 This report sets out information regarding the fraudulent activity that took place within the Council's Housing Maintenance Service during the months between July 2018 to February 2019.
- 1.2 It explains how the fraudulent activity of an individual staff member was detected, what steps were immediately taken and an overview of the criminal proceedings that followed.

#### **2. Background**

- 2.1 On 23 January 2019, the Housing Maintenance Service Manager became aware of a significant and unexpected spike in expenditure on reactive maintenance of Council properties. An incremental increase over a 6 month period was discovered during scheduled budget review meetings between the Housing Maintenance Service Manager and the Service Accountant. The Council's Section 151 officer was made aware on 5 February 2019, and an internal investigation was immediately launched. A summary of the facts ascertained during that investigation are set out below.
- 2.2 In July 2018, a Council employee, Richard Cullen, a Housing Maintenance Officer (who had been employed by the Council since 2012) instigated a new supplier, Alltype Roofing Limited, to whom maintenance works totalling £407,373, were awarded over the period from August 2018 to February 2019. The Director of that company (now dissolved) is Stephen Leggett.
- 2.3 Housing Maintenance Officers are required to arrange necessary reactive maintenance work to Council owned properties. They either identify the remedial work required themselves (whilst out on estate visits), or matters are referred to them by other supervisors/managers. The Maintenance Officer will then proceed to arrange for the work to be done, usually using external contractors and to arrange payment for that work.
- 2.4 Each Maintenance Officer is a Budget Responsible Officer under the Council's financial procedures and, at this time, had the ability to raise and approve individual works and invoices up the value of £10,000.
- 2.5 A total of 94 invoices were paid to Alltype Roofing Limited between August 2018 and February 2019 by Richard Cullen, all of which were under £10,000. However, the investigation revealed that invoices in respect of the jobs given to the company by Richard Cullen had been deliberately manipulated to ensure that any invoice did not exceed the limit of £10,000. For example, the re-roofing of a block of garages was broken down, garage by garage, so that each invoice did not exceed the £10,000 limit, which resulted in 13 individual invoices, each for £2,795 (in this example) being paid by Richard Cullen for the re-roofing of an entire garage block. The correct approach for such a job would have been the payment of one invoice for the entire work at a cost of £36,335, but this would have been outside of Richard Cullen's authority under the Council's financial rules, and outside the scope of the 'reactive' role.

- 2.6 The internal investigation also revealed a significantly higher than expected price was paid to Alltype Roofing Limited for the work carried out, and in a number of incidents, it was suspected that some of the work was not required at all. Further information concerning the overcharging aspect is set out below in section 4.
- 2.7 During the course of the internal investigation, and when it became clear that there was evidence of fraudulent activity, the Police were called in. Police Officers attended a meeting at ATC with NFDC officers on the 12 February 2019 (1 week after the initial suspicions were raised with the Section 151 Officer).
- 2.8 The Police investigation has taken a number of years due to the complexity of the matter and a widening of their lines of enquiry relating to others outside of the Council, and other criminal matters which have no bearing on the Council. What has transpired during the police investigation is that another ex-employee of the Council's, Mark Diaper (who was employed by NFDC between August 2017 and April 2018) was also involved in the fraudulent activity that took place between August 2018 and February 2019. Mr Diaper worked for Alltype Roofing Limited and physically carried out the work that was awarded by Richard Cullen.
- 2.9 After a lengthy Police investigation, charges were brought against Richard Cullen, Mark Diaper and Stephen Leggett. Section 5 below sets out the criminal charges that followed and the outcome of the criminal proceedings.
- 2.10 Following the internal investigation, Richard Cullen was dismissed from the Council's employment. The Council has worked closely with the Police to assist them with their enquiries throughout the investigation.

### **3. Steps Taken**

- 3.1 When it became clear, during the course of the Council's internal investigation, that fraudulent activity had taken place, senior officers of the Council immediately instigated an Action Plan. This included immediate actions to adjust procedures for the setting up of new suppliers and upgraded arrangements to ensure that appropriate segregation between the raising and paying of orders (from feeder systems) was implemented.
- 3.2 Invoices approved totalling £5,450 scheduled to be paid on 7 February 2019 to Alltype Roofing Limited were discovered in sufficient time for them to be removed from the Accounts Payable BACs run before it was completed by the bank. Alltype Roofing Limited were immediately suspended as a supplier within the finance system; this also prevented a further invoice totalling £1,755 being processed.
- 3.3 Interim measures also included specific senior manager approval on a wider range of matters than before. The need to introduce these additional controls had to be finely balanced against the impact on efficiency by having significantly more approval processes in place, bearing in mind the Housing Maintenance Service deals with approximately 7,000 external invoices totalling in excess of £7 million on an annual basis.
- 3.4 The revised internal controls were reviewed through a specific and tailored internal audit review. Internal Audit also remained engaged and kept up to speed throughout the action plan development and delivery. Their review concluded that although an initial detailed scheme of financial authorisation was put into place whereby approval limits for HMO's was reduced to £500, any orders above this limit would be routed to

the Housing Maintenance Operations Manager or above (at the time of the review), it was considered to be a restrictive approval structure to enable long term resilience.

- 3.5 The Internal Audit review also commented on the need to provide a more robust and useful management reporting functionality. It was suggested that reports should be considered which will highlight levels of spend by order value, contractor engagement or by HMO. These areas of concern have been addressed as detailed in the points below.
- 3.6 The Council's external auditor was also informed of the incident, and had due consideration to it in their audit assurance work in the period immediately after the incident. No concerns were raised on overall governance arrangements at the Council by the auditor over this period.
- 3.7 Since this incident, the Council's central procurement team provide all Service Managers with detailed spend analysis reports (3 x per year on a per-supplier basis) in respect of their areas of responsibility. In addition, the Service Manager with responsibility for Housing Maintenance (being the largest service in terms of third-party spend and supplier numbers) undertakes a monthly spend analysis report across all business activity areas, and in particular tracking contractor and material spend.
- 3.8 The Council continued to implement enhanced procurement methods to minimise the risk further, which resulted in a comprehensive review of how the Housing Service procures external work. A Multi-Contractor Framework Agreement for Minor Works has been introduced following open competitive tender, supported by a Minor Works Framework (MWF) User Guide. The aim of the MWF was to establish a list of approved and experienced contractors covering 19 work categories ('Lots') and tightened the Request for Quotation (RFQ) to Payment Process ensuring segregation of duties throughout.
  - 3.8.1 All work requests called-off through the MWF are subject to the issuing of a 'Request to Quote' form. The RFQ costs are validated and approved by a Budget Responsible Officer. Official Purchase Orders are raised by Purchase Coordinators cross referencing the RFQ to allow the Contractor to commence work. Any PO where a line value is in excess of £500, routes to the budget responsible officer to approve or decline.
  - 3.8.2 On completion of the commissioned work, the Contractor requests the issue of a 'Work Completion Certificate' (WCC) from the requesting officer. The Council's Purchasing Coordinator will use the WCC form to complete the Goods/Service Receipt (Goods Receiving Note) process in the Councils' Finance Management System (Unit4). The WCC enables the contractor to submit their invoice for payment. The Contractor's invoice must reference the official purchase order number with the WCC attached and submitted to the Council's Accounts Payable team as set out in the terms of the contract.
- 3.9 Other matters addressed by the action plan;

#### 3.9.1 Suspension Procedures

Richard Cullen was suspended from work on 28 January 2019 and it was established that, whilst suspended, Cullen had accessed NFDC systems to instigate new Purchase Orders and approve invoices. The suspension procedures were immediately reviewed, as it was not at that time, procedure to retain any Council Equipment from an employee. The Procedure on Conducting

a Disciplinary Investigation was updated initially in February 2019 (and updated again since) to state that when a member of staff is suspended the following action will be taken as a precaution;

- Their laptop and any other device(s) is/are to be returned
- ICT access for any device the employee may have is to be disabled
- Any keys to council premises are to be returned
- If they use a council vehicle, arrangements are to be made for this to be returned
- Their identity card is to be returned and will be deactivated

### 3.9.2 Pre-employment Checks

At the time of Richard Cullen's initial employment, there were three types of criminal record check available; standard, enhanced and enhanced with children's and/or adults barred list checks. There were strict limitations on the roles that were eligible for such checks, and roles had to fall within those included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975. The post to which Richard Cullen was appointed was not one for which a check could be made. In September 2019 an additional check was introduced, the basic check. The basic check can be used for any position or purpose. A basic certificate will contain details of convictions and cautions for the Police National Computer (PNC) that are considered to be unspent under the terms of the Rehabilitation of Offenders Act (ROA) 1974. All new employees (since October 2019) are now asked to complete a basic DBS check before their employment is confirmed. Should a DBS check come back with convictions or cautions, then consideration is given (by the recruiting manager) to the nature of the conviction, when it was and the role the candidate is applying for. In addition to new staff, basic checks were also carried out for all existing staff within Housing Maintenance.

### 3.9.3 Workflow Approval

The Council began work to implement a new finance system during 2018. It ultimately went live on 1/4/2020. The Audit Committee received a report on the 29<sup>th</sup> October 2021 (the report delayed after system go-live due to the pandemic), confirming the new approval processes as built into the new finance system, in summary;

- The procure-to-pay (P2P) workflow process works on the basis of a "three-way match", whereby 1) an approved Purchase Order with 2) confirmation of goods or service delivery, matches 3) a correctly submitted Invoice quoting the relevant Purchase Order number. Each of these stages requires input from a different person in the organisation. This is to ensure that no single officer can instigate, approve and sign off a single order and payment, without another officer being involved at a particular stage in the process.
- The workflow process will not allow a Purchase Coordinator to authorise their own requisition (>£500) and will instead escalate it to their manager.
- All requests to add a new supplier to the system must have Service Manager approval and be subject to a check by the Procurement team before being set up.
- Officers who are 'Budget Responsible' have this written into their Job Descriptions, and it is the responsibility of the relevant Service Manager to ensure that they are aware of their responsibility to ensure value for money

is achieved in every purchase, and to protect the public purse against fraud or misuse.

- Internal Audit have a standing 'Accounts Payable' item included within the annual audit plan and cover workflow testing as part of their annual coverage.
- All officers who are budget responsible must also work within the Council's standing orders. This document sets out the various procurement thresholds that must be adhered to. Compliance is monitored by the Council's centre-led Procurement Team. The Audit Committee receives an annual report on CSO waivers.

#### **4. Potential Loss to the Council**

- 4.1 A total of £407,373 was authorised to Alltype Roofing Limited over the period August 2018 and February 2019. Richard Cullen was responsible for £374,392 (92%) of the orders.
- 4.2 Four invoices were received (as part of the £407,373 authorised) totalling £7,205, but these were intercepted before payment was released. Payments made totalled £400,168, with Richard Cullen responsible for £367,187 (92%). Other Maintenance officers made some use of Alltype Roofing Limited which, upon review, was not found to be improper.
- 4.3 During the course of the trial, experts for both the Crown and the Defence gave their view on the overcharging element of the works. This ranged between 53% and 65% which when extrapolated, equates to sums of £139,000 and £158,000 respectively.
- 4.4 The Council was overcharged an amount between these 2 figures for the works carried out.

#### **5. Criminal Proceedings**

- 5.1 The Police investigation resulted in Richard Cullen, Mark Diaper and Stephen Leggett being charged with 'Conspiracy to Defraud' based on the following:-
- (i) submitting fraudulent claims for payment for property maintenance works on behalf of Alltype Roofing to New Forest District Council
  - (ii) overcharging New Forest District Council for the said property maintenance works and,
  - (iii) arranging for Richard Cullen in his capacity as a maintenance officer employed by New Forest District Council to authorise payment of the fraudulent claims Contrary to Common Law.
- 5.2 There was additional bribery charges against Mark Diaper and Stephen Leggett where it was alleged they gave a financial advantage to Richard Cullen, intending to reward him for the improper performance of his function as a maintenance officer by placing orders for property maintenance works with Alltype Roofing Limited, and authorising payment of fraudulent claims for the property maintenance works submitted by them.
- 5.3 In addition, there was a specific charge of bribery against Richard Cullen where it was alleged that he accepted a financial advantage as a reward for the improper

performance of his functions as a maintenance officer by placing orders for property maintenance works with Alltype Roofing Limited, and authorising payment of fraudulent claims for the works submitted.

- 5.4 Following the entering of not guilty pleas by all 3 defendants, both Richard Cullen and Mark Diaper changed their pleas to guilty at Court hearings in January 2023 in respect of all the charges laid against them.
- 5.5 Stephen Leggett continued with his plea of not guilty and at his trial in June 2023, he was found not guilty of the conspiracy to commit fraud charge. As the jury were unable to decide on the bribery charge, a new trial date was set for January 2024. The trial for Stephen Leggett commenced 02 January 2024 but again the jury could not reach a majority verdict therefore on the 09 January 2024 it was announced as another hung jury. The CPS have made the decision to not pursue another trial against Mr Leggett.
- 5.6 Sentencing of Richard Cullen and Mark Diaper took place on 15 February 2024 at Southampton Crown Court whereby Richard Cullen was sentenced to 58 months in prison and Mark Diaper was sentenced to 32 months in prison.

## **6. Conclusion**

- 6.1 This was a matter that involved the committing of serious criminal offences by several individuals, which resulted in financial loss to the Council. The individuals who committed the criminal offences have received significant penalties for their conduct.
- 6.2 When management first identified the suspected fraudulent activity, the Council took immediate steps to restrict approval levels and segregation for the award and payment of external contractors within Housing Maintenance. More fundamental reviews were also instigated in respect of procurement practices across housing leading to new more robust supply chain models covering Materials Supply, Minor Works and Specialist Services contracts. A new Contracts Relationship Officer role within the corporate procurement team also supports the Housing Service in supply chain pipeline, procurement, evaluation and award and contract term performance management in ensuring value for money.
- 6.3 Further actions were taken to tighten up on suspension procedures, additional pre-employment checks are now undertaken and the financial system workflow underwent a complete overhaul as a result of the implementation of the new system in 2020. New reporting is also issued on a regular basis, overseen by the Council's Central procurement team (including the 3 x embedded Contract Relationship Officer roles).
- 6.4 Internal Audit remained engaged throughout and tailored their audit planning to ensure internal controls and follow up actions were robustly overviewed in light of this incident.
- 6.5 External Audit were also kept abreast of the incident.
- 6.6 The uniqueness of this fraud has been identified with one internal individual allowing himself to be bribed and by-passing some internal controls already in place to misappropriate public funds.
- 6.7 Due to the nature of the service an element of risk occurs if you wish to operate an efficient effective service. However, from the internal review risks have been identified

and as detailed in this report enhanced procedures have been implemented therefore significantly reducing the risk of fraud.

**For further information please contact:**

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**Background Papers**

None