



**DUNDEE CITY COUNCIL**

**ANTI FRAUD AND ANTI CORRUPTION POLICY**

**(DIRECTOR OF FINANCE APPROVAL 29 SEPTEMBER 2010)**

## INDEX

ITEM	PAGE NO
ANTI FRAUD AND ANTI CORRUPTION POLICY	5
EQUALITY IMPACT ASSESSMENT	5
THE REVENUES DIVISION'S VISION STATEMENT	5
PREVENTION	6
The Role of Internal Audit	6
The Role of External Audit	6
The Role of Members	6
The Role of Management	6
Employee Responsibility and Disciplinary Implications	6
DCC Employee Benefit Fraud	6
Service Level Agreements with Stakeholders	7
Audit Scotland Responsibilities of Employees	7
Risk Assessment	7
Land Registry Checks	7
Fraud Awareness	7
Publicity	7
DETERRENCE	8
Repayment	8
Sanction Policy	8
Detention of individuals	9
Sanctions	9
Administrative Cautions	9
Administrative Penalties	9
Prosecutions	10
Sanction Standards	10
Lesser Sanctions	10
Joint Working	11
Fraud Offence History	11
Pensioner Claimants	11
Sanction Variances	12

DETECTION	12
Corporate Five Year Plan	12
Finance Service Plan	12
Annual Business Plan	12
Counter-fraud Objectives	12
Benefit Fraud Message	12
Test of Fairness	13
Evidential Test	13
Self-provision of Evidence	13
Public Interest Test	13
Benefit Fraud Strategy	15
Caseload Analysis	16
Risk Assessment	16
Case Outcome Risk Assessment	16
Do Not Redirect	16
Data Matching	16
Remote Access to DWP Benefit Data	17
National Fraud Initiative	17
Service Level Agreements with external stakeholders	17
Fraud Hotline	17
Investigations	17
Code of Conduct for Investigators	17
Investigation Targets	17
Counter Fraud Section	17
Counter Fraud Section Remit	18
Counter Fraud Qualifications	18
How are Fraudsters Caught	18
Referring a Benefit Fraud Case	18
Action the Counter Fraud Section Will Take	19
Fraud Referral Quality Assessment	19
Multiple Referrals	20

	What Should You Refer	20
	What Sort of Information Should You Include in your Referral	20
	Feedback and Data Protection	20
	Benefit Fraud Offences	20
	Action the Council Will Take Against Benefit Fraudsters	21
	Repeat Offending	21
	Successful Prosecution Possible Repercussions	21
	Proceeds of Crime	21
	Working with the Police	21
	Working with the Department for Work and Pensions (DWP)	22
	Managing Expectations	22
	Interview Under Caution	22
	Involving the Public	22
	Involving Businesses	23
	Training	23
	Equality Impact Assessment (EQA)	23
	Publicity	23
	Quarterly Fraud Section Performance Reporting	23

## DUNDEE CITY COUNCIL

### ANTI FRAUD AND ANTI CORRUPTION POLICY

This policy document sets out Dundee City Council's commitment to the prevention, deterrence and detection of benefit fraud in respect of Housing Benefit and Council Tax Benefit.

Fraud is defined by the Accounts Commission for Scotland as "The intentional distortion of financial statements or other records by persons internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain".

The Council will not tolerate fraud, corruption or abuse of position for personal gain and is committed to protecting public funds by securing our benefit administration through robust working methods and procedures and promoting an environment that actively encourages the highest principles of honesty and integrity

The Council has implemented a programme of counter-fraud activities to prevent, deter, detect, investigate and take action against, perpetrators of benefit fraud.

#### **Our aim is to:**

- prevent fraud from entering the system
- detect existing fraud, investigate and, where fraud is found proven, take appropriate action
- deter fraudsters through fraud awareness training, publicity campaigns and complying with the Council's Benefit Sanction Policy ([www.dundee.gov.uk/fraud](http://www.dundee.gov.uk/fraud)).

Where any benefit fraudulent activity could have implications for Department for Work and Pensions' benefits, the Council is further committed to joint working to take action on *all* benefits in payment while strictly adhering to all relevant legislation.

#### **EQUALITY IMPACT ASSESSMENT**

Equality Bill 2006 - General duties:

A public authority shall in carrying out its functions have due regard to the need:

- a) to eliminate unlawful discrimination and harassment, and
- b) to promote equality of opportunity between men and women.

This Anti-fraud and Anti-corruption Policy has been EQIA'd and no concerns were raised.

#### **THE REVENUES DIVISION'S VISION STATEMENT**

The Revenues Division embrace Dundee City Council's aims to show respect and consideration for everyone, treating everyone fairly, with dignity and equality. Delivering a service that meets needs by providing support and financial aid where appropriate. Working with the City to reduce material deprivation, improve health and increase social protection.

In the administration of benefits we aim to deliver the services that meet the recognised needs of our older people, single people, families, sick, disabled, unemployed and homeless.

The Council will continue its efficient and effective billing and collection of Council Tax, Non-Domestic Rates and Community Charge to ensure that all income legitimately due to the Council for these local taxes is billed and thereafter collection maximised.

Working to bring equality into our service by eradicating discrimination. Giving our citizens the freedom to make their own choices by facilitating access to our services so that everyone can participate on equal terms.

We further aim to build strong ties with our citizens and stakeholders, supporting individuals to live in decent housing by providing a service that is customer-focused, modern, efficient, speedy, accurate and secure from fraud and error.

## **PREVENTION**

The Council will not tolerate fraud, corruption or abuse of position for personal gain and is committed to securing effective methods of prevention, detection and investigation. The Council will promote an environment that actively encourages the highest principles of honesty and integrity.

### **Role of Internal Audit**

Internal Audit is a service to the organisation and contributes to internal control by examining, evaluating and reporting to Management on its adequacy and effectiveness. Whilst it is not a primary function of Internal Audit to detect fraud, their work should assist Management in preventing and deterring fraud through the strengthening of internal control.

### **Role of External Audit**

As part of their work, External Audit should consider and assess the arrangements in place for the prevention and detection of fraud.

### **The Role of Members**

Elected Members are responsible for ensuring that adequate Management arrangements are in place; for developing and taking decisions on the use of the Council's physical, financial and human resources; to concern themselves with the performance, development, continuity and overall well-being of the organisation.

### **The Role of Management**

Management at all levels are responsible for ensuring that their staff are aware of the Authority's Schemes of Administration, i.e. financial regulations, tender procedures and delegation of powers, and that the requirements of each are being met. It is also a Management responsibility to maintain internal controls and to ensure that the Authority's resources are properly applied in the manner and on the activities intended. This includes responsibility for the prevention and detection of fraud.

Special arrangements may apply where employees are responsible for systems that generate payments, for example the Housing Benefit computer system. Managers should ensure that adequate and appropriate training is provided for staff and that checks are carried out to ensure that proper procedures are being followed. Managers should also consider whether pre-employment checks should be undertaken for certain posts.

The Council's Recruitment and Selection process should be strictly adhered to and, in particular, the references and qualifications of all proposed new employees of the Authority should be thoroughly checked prior to a position being offered.

To assist Management in discharging their duties, advice should be sought from Internal Audit, the Head of Personnel and the Deputy Chief Executive (Support Services).

### **Employee Responsibility and Disciplinary Implications**

Employees are responsible for their own conduct, standard of work and behaviour. Heads of Departments are responsible for the management and discipline of their Departments. A manager/supervisor may caution an employee when a minor infringement of the established standards of conduct or performance has been committed. Whilst this will not constitute formal disciplinary action, further misconduct or failure to achieve required standards of work will lead to formal action. In cases of formal disciplinary action, the Head of Department, or a nominated senior officer, has the right to warn, suspend without pay, withhold incremental progression, and demote or dismiss, subject to an employee's right of appeal. The Personnel Department will advise department managers on all disciplinary matters.

Employees have a duty of good faith towards their employer. If an employee is found to have committed or to have known about a benefit offence being committed and has failed to notify or withheld information from the Council, he/she will be subject to disciplinary action in accordance with the Council's Disciplinary Procedure, which could result in dismissal.

### **DCC Employee Benefit Fraud**

Where an employee is a benefit claimant and the benefit fraud investigation has resulted in a proven fraud outcome and the following action has been pursued:

- Administrative Caution (warning)
- Administrative Penalty (financial penalty 30% of overpaid benefit accruing from December 1997)
- Prosecution

Or where an employee is the benefit claimant's partner/spouse and the investigation officer can provide supporting information or evidence where the comments or actions of the partner/spouse demonstrate that they had knowledge of the benefit fraud offence while it was taking place and where they took no steps to prevent it continuing then the relevant information will be provided to the Director of Finance and the Head of Personnel to assess whether the case is suitable to proceed to disciplinary action.

If the decision is to proceed then the information will be provided to the Head of the relevant service to follow the Council's disciplinary procedures.

### **Service Level Agreements with stakeholders**

The Council will liaise where appropriate with outside organisations to encourage closer working and formalising joint working through the implementation of Service Level Agreements. However, these agreements will necessarily be subject to there being appropriate legal gateways to sharing of information and resources.

### **Audit Scotland**

From April 2008 Audit Scotland has taken over from the Benefit Fraud Inspectorate in the role of inspecting benefit administration. A rolling programme of inspections is now in place to ensure that Councils are continually working to improve the service they provide for the public. Dundee City Council will endeavour to implement any recommendations made by Audit Scotland.

### **Risk Assessment**

The Council is aware of its duty of care to its citizens but it is also aware of its duty of care to its employees. As such, risk is assessed and managed regarding lone working.

### **Land Registry Checks**

Benefit applications are checked against the Land Registry data where appropriate

### **Fraud Awareness**

The Counter Fraud Team carry out a varied range of benefit fraud awareness work to a wide range of organisations and agencies. This work includes:

- internet publication of the quarterly Counter Fraud Performance Report
- internet interactive awareness sessions by e-mail
- face to face presentations
- joint working presentations with the DWP
- quarterly adverts on city buses
- various adverts placed in local magazines
- adverts on library carrier bags in the city
- twice a year publicity campaigns
- responding to requests for awareness sessions
- being proactive in approaching organisations to provide awareness sessions

The content is continually reviewed to ensure that the sessions delivered are always changing, covering different aspects of benefit fraud to engage the audience. The Council firmly believes that working together we can make a real difference towards eradicating fraud within the benefit system. If you would like the Benefit Fraud Team to come to your organisation to do a benefit fraud awareness presentation please contact the Fraud Manager on 01382 431255.

### **Publicity**

The Council funds a twice-yearly Fraud Awareness publicity campaign during May and November involving press adverts, fraud awareness posters and an on-line referral form on the Council's internet site, billboards in the city centre, posters in public offices and leaflets issued with Revenues mail.

In addition to this the Council also has a quarterly advertising campaign on city buses to advertise the benefit fraud hotline and Internet referral process.

The Council also takes the opportunity to advertise in various magazines and take part in video advertising in the city centres as opportunities and resources allow as well as having adverts on carrier bags issued by our libraries.

## **DETERRENCE**

### **Repayment**

The Council will seek repayment of all incurred Housing Benefit or Council Tax Benefit overpayments which have arisen as a result of fraudulent activity.

Where an individual has committed a benefit fraud offence, Dundee City Council will actively seek to recover the overpayment in full, taking all legal steps available.

Where an individual has been found to have committed a benefit offence, where the case results in an Administrative Caution or Administrative Penalty interview, the Officer undertaking the interview is accompanied by a member of the Housing Benefit Overpayment Team so that recovery of the debt can be put in place straight away.

Should the individual still be entitled to benefit then the Housing Benefit Overpayment Team will implement automatic deductions from the on-going benefit entitlement.

This recovery progress is monitored to ensure that agreed repayment arrangements are adhered to. Should a debtor default on an arrangement the debt will automatically progress through the various debt management stages.

If repayment arrangements are still not in place by this time the debt is reviewed on a case-by-case basis to take account of all the circumstances. The options at this stage are as follows:

- if there is any doubt about the residence of the debtor the Council and Department for Work and Pensions records are searched to establish any different address that the individual appears at as a member of that household so that contact can be made with the debtor at the new address to progress repayment
- if the debtor is in receipt of a benefit from the Department for Work and Pensions (DWP) the Council can request repayment deductions from their DWP benefits
- if the debtor has relocated to another area the Council can request repayment from ongoing benefit entitlement that the debtor has at their new address
- the debt is forwarded to the Sheriff Officer to take action to recover
- if the debtor has expressed a financial difficulty in repaying the debt, the Council can issue an Income and Expenditure Form to determine what the individual is likely to be able to afford. Supporting documentation may be requested to confirm any outgoing expenses noted in the form
- where appropriate the debt may be recovered from the landlord's next cheque

All debts are regularly reviewed for changes to the debtor's location and financial circumstances

### **Sanction Policy**

The Council is committed to taking action against anyone committing fraud offences and as such has a policy in place supporting this Anti-fraud and Anti-corruption Policy ([www.dundee.gov.uk/fraud](http://www.dundee.gov.uk/fraud)).

The Council endeavours to implement best practice at all times and, where appropriate will incorporate DWP guidelines on benefit sanction criteria.

Where a case is identified as being suitable to be progressed to prosecution the Council will consider invoking the powers invested in Local Authorities by the Social Security Administration Act 1992 and all subsequent amendments allowing the imposition of Administrative Cautions and Administrative Penalties as an alternative to prosecution.

## **Detention of individuals**

Should an individual fail to attend an interview under caution without good cause the Council may in serious cases request that the police detain the individual under Section 14 of the Criminal Procedure (Scotland) Act 1995 in order to carry out the interview. In such instances the Council's Investigation Officer leading the investigation will liaise with the police and the police will undertake the interview under caution in the interview suite of Tayside Police as soon as possible after the individual has been detained.

## **Sanctions**

### Administrative Cautions

Administrative Cautions are levied under the terms of Section 115A of the Social Security Administration Act 1992

An Administrative Caution is appropriate where it has been determined that a benefit fraud offence has taken place, the perpetrator has admitted this during an interview under caution, it is either a first offence and it is not so serious that the first option should be Administrative Penalty or Prosecution. The criteria for an Administrative Caution is as follows:

- a) the case has been reviewed and has met the evidential requirements to be reported to the Procurator Fiscal
- b) the circumstances of the case merit a more serious form of deterrent action over and above the recovery of the overpaid benefit(s)
- c) the fraud has resulted in a combined benefit overpayment (Housing Benefit, Council Tax Benefit and DWP benefits) ranging between £0-£1,999.99
- d) after interviewing the possible offender the Council has made an independent review of the case and found it suitable for sanction action
- e) the offender has admitted the offence
- f) the offender is 18 or over

### Administrative Penalties

Administrative Penalties are levied under the terms of Section 115A of the Social Security Administration Act 1992 as amended by Section 15 of the Social Security Administration (Fraud) Act 1997

An Administrative Penalty is appropriate where it has been determined that a benefit fraud offence has taken place, but the offence is not so serious that the first option should be Prosecution. In cases where the offence is a second offence then the case will be reported to the Procurator Fiscal for prosecution.

The level of the financial penalty is laid down in legislation as being 30% of any accrued benefit overpayment occurring with effect from 18 December 1997 due to the fraud offence. The criteria for an Administrative Penalty is as follows:

- a) the case has been reviewed and has met the evidential requirements to be reported to the Procurator Fiscal
- b) the circumstances of the case merit a more serious form of deterrent action over and above the recovery of the overpaid benefit(s)
- c) the fraud has resulted in a combined benefit overpayment (Housing Benefit, Council Tax Benefit and DWP benefits) ranging between £0-£1,999.99
- d) after interviewing the possible offender the Council has made an independent review of the case and found it suitable for sanction action
- e) the offender is 18 or over

## Prosecutions

Reporting to the Procurator Fiscal is under the terms of Sections 111 and 112 of the Social Security Administration Act 1992 and under Common Law.

A prosecution is appropriate where it has been determined that a benefit fraud offence has taken place, where the offender has committed a previous benefit fraud offence and / or the offence is such that it is suitable to prosecute as the first option. The criteria criterion for prosecutions is as follows:

- a) the case has been reviewed and has met the evidential requirements to be reported to the Procurator Fiscal
- b) the circumstances of the case merit a more serious form of deterrent action over and above the recovery of the overpaid benefit(s)
- c) the fraud has resulted in a combined benefit overpayment of £2,000 or over (Housing Benefit, Council Tax Benefit and DWP benefits)
- d) where delay is usually taken into account and undue delay will prevent a case from being reported, where the fraud has resulted in a £10,000 or over combined benefit overpayment (Housing Benefit, Council Tax Benefit and DWP benefits) the matter, as long as it is evidentially sound, will be reported to the fiscal irrespective of the level of delay as this is seen as a more serious level of fraud and in need of an objective view point from the Procurator Fiscal
- e) the perpetration of the fraud involves such action that involves a level of fraudulent scheme demonstrating increased fraudulent intent
- f) the circumstances of a case are such that there is a new element to either the fraud or the investigation that has not been tested in a report to the Procurator Fiscal
- g) where, if an Administrative Caution or an Administrative Penalty has been offered on the same case, it has been refused
- h) the offender is over 18
- i) if the offender has previous benefit offences on record

The Council is committed to taking action against fraudsters and as such has a Benefit Sanction Policy in place supporting this document ([www.dundee.gov.uk/fraud](http://www.dundee.gov.uk/fraud)).

Applying appropriate sanctions against persons who have committed benefit fraud as an essential element of our anti-fraud strategy, the Council endeavours to implement best practice at all times and, where appropriate to joint working, incorporate DWP guidelines on benefit sanction criteria.

### **Sanction Standards**

When a case is investigated and a benefit offence has been found to have been committed, it is then reviewed to ensure that is suitable for reporting to the Procurator Fiscal. All sanction cases must be suitable for prosecution.

Sanctionable cases go through a three part testing process prior to being authorised for sanction action. The tests are the test of fairness, evidential test and public interest test and are documented as part of the detection of fraud procedures within this policy document.

### **Lesser Sanctions**

Where a case is identified as being suitable to be progressed to prosecution the Council will consider invoking the powers invested in Local Authorities by the Social Security Administration Act 1992 and all subsequent amendments allowing the offering of Administrative Cautions and Administrative Penalties as an alternative to prosecution. The criteria for deciding which sanction is appropriate is documented as part of the detection of fraud procedures within this policy document.

All sanction action is in addition to the requirement to repay any overpaid benefit resulting from the fraudulent activity.

Where a benefit claimant provides the Revenues Division with evidence which assists in proving an offence, providing the claimant was cautioned prior to providing the evidence, and therefore was aware of the possible implications of providing that evidence, the evidence will be accepted and used in the investigation negating the requirement to obtain this evidence and accompanying witness statement from the originating source.

If there are exceptional circumstances, an example of which could be where a claimant holds a position of trust in the community or is an employee with the Council, this will be taken into consideration when determining both any appropriate sanction action and also disciplinary action.

The offering of Administrative Cautions or Administrative Penalties will be at the discretion of the Council under the guidelines documented as part of the detection of fraud procedures within this policy document. Refusal of a Caution or a Penalty will normally result in the Council reporting the case to the Procurator Fiscal.

### **Joint Working**

The Council promotes joint interdepartmental working and joint working with external organisations where that work will promote securing the gateway to fraud.

Working closely with the Fraud Investigation Service (FIS) its counterparts within the Department for Work and Pension's (DWP) the Council has fully embraced joint-working.

All cases where there is both Council and Department for Work and Pensions benefits affected by the offence the cases will be considered for joint working with the Department for Work and Pensions Fraud Investigation Service.

It has been agreed that where joint working has taken place in a DWP investigation and that case is then vetted by the DWP and deemed suitable for sanction action the Council will follow the DWP lead on what further action is appropriate to that case.

The same follows for Council led cases so in joint working cases, therefore, the lead organisation will take responsibility for vetting cases for further action.

### **Fraud Offence History**

In assessing the appropriate sanction action the offenders benefit fraud history will be taken into consideration.

### **Pensioner Claimants**

When an investigation leads to a proven fraud against a pensioner claimant and the normal claimant circumstances have been considered resulting in the case proceeding to sanction, the Council will assess the suitability for sanction as follows:

- where there is previous fraud history then the case will normally be reported to the Procurator Fiscal
- where there is no previous fraud history, the individual admits the offence, and it fits the overpayment and fraud offence period criteria, the individual will be offered an administrative caution
- where there is no previous fraud history, the individual does not admit to the offence, and it fits the overpayment and fraud offence period criteria, the individual will be offered an administrative penalty
- refusal of an administrative caution or penalty will normally result in the matter being reported to the Procurator Fiscal
- where the sanction overpayment of benefit amounts to £5,000 or over the matter will normally be reported to the Procurator Fiscal

Should an offender decline the offer of an Administrative Caution or an Administrative Penalty, the matter will normally be reported to the Procurator Fiscal to consider prosecution.

In order to deter future fraudulent activity, where a case is referred to the Procurator Fiscal for criminal proceedings and is subsequently brought to court, the Council may publicise the details in the local press.

All sanction action is recorded.

### **Sanction Variances**

All sanction cases - Administrative Cautions / Administrative Penalties / Prosecutions - are vetted to ensure that the action being considered complies with the Council's Benefit Sanction Policy ([www.dundee.gov.uk/fraud](http://www.dundee.gov.uk/fraud)).

Any cases where a sanction is administered by the Council and it falls outside the sanction criteria, will qualify as a variance to the Benefit Sanction Policy and as such will be reported to the Elected Members in the quarterly Counter Fraud Performance Reporting and, if approved, will be incorporated into the policy. This ensures strict control measures are in place.

As soon as practicable, all variance situations will be incorporated into the Benefit Sanction Policy.

### **DETECTION**

#### **Corporate Five Year Plan**

This Anti-fraud and Anti-corruption Policy is supported by the Fraud elements of the Council's internal Corporate Five Year Plan and the Fraud Manager assesses the counter fraud section performance for compliance during the year by documenting the section's progress on each item and implementing procedural adjustments if appropriate to ensure that the plan objectives are met.

#### **Finance Service Plan**

The Finance Department sets out the Council's twin aims to deliver outcomes for its citizens and improve services.

Benefits administration has a very high priority both for the Finance Department and the authority itself and the counter-fraud section measures its performance against the relevant service plan requirements.

#### **Annual Business Plan**

The internal Counter-fraud Annual Business Plan and Strategy supports the Corporate five year plan, the Finance Service Plan, Anti-fraud and Anti-corruption Policy and the Benefit Sanction Policy

Each year the Fraud Service performance is reviewed, updating the Annual Business Plan accordingly.

As with the internal Corporate Five Year Plan, the Fraud Manager assesses the counter fraud Annual Business Plan by documenting the section's progress on each item and implementing operational adjustments where appropriate.

Should there be changes to the plan required then the document is updated by further entries being made with any necessary information being carried forward to the next revision of the Corporate Five Year Plan.

The Council's Corporate Five Year Plan, Counter -fraud Annual Business Plan, Anti-fraud and Anti-corruption Policy and the Benefit Sanction Policy work together to ensure that Dundee City Council has a robust anti-fraud strategy.

#### **Counter-fraud Objectives**

In the Annual Business Plan and Strategy the annual counter-fraud achievement objectives for the future financial year are documented. These are reviewed for performance at the end of the financial year and a revised set of achievement objectives are then implemented for the following financial year. In this way we aim to continually improve the service the counter-fraud section provides.

#### **Benefit Fraud Message**

It is important that the public are aware that there are processes in place to secure the gateway to benefit fraud. The message is – **ANY PERSON DEFRAUDING BENEFIT WILL BE CAUGHT!**

#### **Test of Fairness**

Dealings with persons in relation to benefit investigations should be fair and proportionate and the Council should be able to demonstrate this.

The aspects of our sanction investigations that we consider in the test of fairness are:

- our record keeping throughout the investigatory process
- officers' awareness of the test of fairness
- the interviewee's rights
- the interviewee's needs
- the level of information given to the interviewee prior to interview
- the level of information given to the interviewee during the interview
- allowing the interviewee sufficient time to respond
- advising the interviewee what will happen next
- taking account of delay during an investigation
- being able to provide transcripts of interviews to demonstrate the above
- making the interview DVD, tape or transcript available to the interviewee on request

### **Evidential Test**

Sanction cases require to be fit for prosecution and so must be able to demonstrate a suitable level of evidence.

If the case does not pass the evidential test, it should not proceed to being reported to the Procurator Fiscal.

Our evidential test that is applied is that we must be satisfied that:

- there is sufficient corroborated evidence to enable the Procurator Fiscal to proceed with the case
- the evidence is from reliable sources
- the evidence can be used

### **Self-provision of evidence**

Where a benefit claimant provides the Revenues Division with evidence which assists in proving an offence, providing the claimant was cautioned prior to providing the evidence, and therefore was aware of the possible implications of providing that evidence, the evidence will be accepted and used in the investigation negating the requirement to obtain this evidence and accompanying witness statement from the originating source.

### **Public Interest Test**

If a case passes the evidential test then we consider whether a prosecution would serve the public interest by being a good use of public funds.

While this is ultimately the remit of the Procurator Fiscal we have empirical data from our past prosecution cases that enables us to review our cases for public interest rather than referring cases to the Procurator Fiscal when we know that they will be marked no proceedings.

If the council is aware that a case will not be successful before reporting it would be a poor use of resources for the:

- council to take the time to prepare the case and submit it to the fiscal
- fiscal deputes to spend time assessing the case
- council to then have a mark against it as an unsuccessful prosecution

The Public Interest Factors that are considered are contained in the Benefit Sanction Policy and are as follows:

- Age

When an investigation leads to a proven fraud against a pensioner claimant and the normal claimant circumstances have been considered resulting in the case proceeding to sanction, the Council will assess the suitability for sanction as follows:

- where there is previous fraud history then the case will be reported to the Procurator Fiscal
- where there is no previous fraud history, the individual admits the offence, and it fits the overpayment and fraud offence period criteria, the individual will be offered an administrative caution
- where there is no previous fraud history, the individual does not admit to the offence, and it fits the overpayment and fraud offence period criteria, the individual will be offered an administrative penalty
- refusal of an administrative caution or penalty will result in the matter being reported to the Procurator Fiscal
- where the sanction overpayment of benefit amounts to £5,000 or over the matter will automatically be reported to the Procurator Fiscal

- Social Welfare

In all cases the known circumstances of the individual will be assessed and if it is felt that the individual has been enduring difficult social circumstances this will be reviewed to assess whether proceeding to sanction would be advisable e.g. where the claimant is having to cope with very difficult circumstances in their life such as the terminal illness of a child. The assessment is to determine whether it would really be thought to be in the public interest to put this individual through more stress when they are finding it difficult to cope with 'normal' life on a day to day basis. This is not a category that can be easily documented as it will depend on the circumstances of each case. Validation of the circumstances may also be required.

- Mental Health

The mental health of the individual will be taken into consideration before any sanction decision is taken. Where it is known or suspected that there may be a mental health issue then the matter will be looked into further and if established then the case may not be deemed suitable for sanction action. Validation of the circumstances may be required.

- Physical Health

The physical health of the individual will be taken into consideration before any sanction decision is taken e.g. if the individual is suffering from a terminal illness. The assessment is to determine whether it would really be thought to be in the public interest to put this individual through more stress when they are finding it difficult to cope with 'normal' life on a day to day basis. This is not a category that can be easily documented as it will depend on the circumstances of each case. Validation of the circumstances may also be required.

- Voluntary disclosure of any information

Where an individual advises the Council that they have previously failed to declare either their true circumstances or a change in their circumstances **before** any action has been taken by the council regarding any possible discrepancy with their benefit then the matter may not be suitable for sanction action. However, if it is found that the voluntary disclosure has resulted from any correspondence or contact from the Council regarding a possible discrepancy in that individual's benefit then the matter will be subject to normal sanction criteria.

- Whether criminal intent can be demonstrated

To assess whether the investigation has established that the individual intended to defraud. Sanction action will only be taken where intent to defraud has been established and can be supported by the facts / evidence of the case.

- Fraud history

When a case has been vetted for sanction action then it is assessed for previous fraud offences to determine which sanction action is appropriate. This previous history check is possible due to the DWP maintaining a database on all benefit fraud sanction cases.

The database includes both DWP and LA benefit fraud sanction cases. If previous offences are found then the case will be reported to the Procurator Fiscal for prosecution irrespective of what sanction would be appropriate for the current fraud offence.

- Period of fraud

The length of time that a benefit fraud offence has been ongoing can demonstrate a higher level of intent to defraud and also that the offender would be unlikely to ever voluntarily disclose the situation and / or stop defrauding. It is therefore an important factor when assessing a case for possible sanction action.

- The length of time taken in the investigation

All cases are assessed for how long it has taken to investigate and within that time whether there has been any avoidable delay involved before any sanction decision is made.

- Claimant being a member of staff

Council employees are expected to act honestly, appropriately and with integrity. While being a member of staff committing a benefit offence will not affect the decision to take sanction action or not, where an employee is found to have committed benefit fraud or have been collusive in allowing the fraud to continue then the matter is subject to a report to the Depute Chief Executive (Finance) and the Head of Personnel to determine suitability for disciplinary action.

- Whether the claimant has declined a Caution or Administrative Penalty

Where an individual refuses one or the lesser sanctions, an Administrative Caution or Administrative Penalty, the matter will be reported to the Procurator Fiscal for prosecution.

- The level of the fraudulent scheme showing increased fraudulent intent

If the investigation has established that the individual has gone to unusual lengths to commit benefit fraud then the matter will be reported to the Procurator Fiscal for prosecution due to this high degree of intent to defraud.

- Any collusive scheme with third parties

If the investigation has established that there are multiple individuals involved in the scheme to commit benefit fraud then the matter will be reported to the Procurator Fiscal for prosecution due to this high degree of intent to defraud.

- Affect on DWP benefit

Where there will be a reduction or withdrawal of a DWP benefit due to the fraud then a joint investigation may be undertaken with both organisations taking appropriate sanction action.

- Any failure in investigation

All cases are assessed for any failure in the investigation before any sanction decision is made.

- Any failure in benefit administration

All cases vetted as suitable for sanction are independently checked for any failure in the benefit processing before any action is taken.

## **Benefit Fraud Strategy**

The Council is committed to tackling fraud and our strategy is documented in our in-house Counter-fraud Annual Business Plan and Strategy document.

### **Caseload Analysis**

Analysis of our caseload has an important part to play in how our officer resource is deployed. For example, over many years our analysis has shown that approximately a third of the allegations we receive relates to situations where the claimant is claims to be living on their own but in fact has a partner living with them. In this particular situation the partner can be earning and so that household income should have been declared so that the true level of household income can be used to reach the correct entitlement to benefit. Knowingly failing to declare your true household circumstances is an offence.

As one example of how our analysis leads the service we provide, this high level of referrals for Living Together (LT) 'cases resulted in one of the Investigation Officers being designated as an LT Officer with the specific remit of investigating these cases. The remaining four Investigations Officers concentrate on other high risk cases.

### **Risk Assessment**

All referrals are risk assessed and actioned accordingly.

Referrals will be actioned via various sections depending on the outcome of the risk assessment process:

- Counter-Fraud to undertake an investigation. All referrals taken on for fraud investigation either by the Council or the DWP are subject to joint working consideration.
- Department for Work and Pensions to assess the referral for fraud investigation where a DWP benefit is in payment. All referrals taken on for fraud investigation either by the Council or the DWP are subject to joint working consideration.
- Liaison Section to visit to gather pertinent information and / or documentation to ensure the benefit and / or Council Tax liability discount are updated as required.
- Accounts Section to process any changes to benefit and / or Council Tax liability, write out, telephone to request any information and / or documentation that is required to enable the processing of benefit and / or Council Tax liability.

Investigation case outcome risk assessments are used to identify high risk areas where resources can be targeted.

Procedures relating to Counter-fraud activity evolve as required.

### **Do Not Redirect**

The Council takes advantage of the Royal Mail's Do Not Redirect Service to combat fraud where a person claims benefit from an address that they do not reside at.

Where an official mail redirection has been put in place with Royal Mail, this service allows for benefit mail issued by the Council to the original address to be intercepted and returned with the redirection information so that investigations can be implemented.

All Do Not Redirect items are recorded and monitored by the counter-fraud section with investigations taking place where discrepancies arise.

The Council also works in partnership with Royal Mail and where any unofficial redirection of post is uncovered this matter will be referred onto their own investigators.

### **Data Matching**

Data-matching involves bringing together data from different sources and comparing it to identify any discrepancies. This comparing of data aims to identify cases that merit investigation.

The Council takes part in many data-matching exercises both internal and external, promoting data-matching where there is a legal gateway which allows for this very effective fraud detection procedure.

### **Remote Access to DWP Benefit Data**

Separate from data matching, procedures are in place to facilitate remote checking any Department for Work and Pension benefit in payment where an individual has applied for benefit declaring that they are receiving a Department for Work and Pensions benefit.

### **National Fraud Initiative**

The Audit Commission is an independent public body responsible for ensuring that public money is spent economically, efficiently and effectively, to achieve high quality local and national services for the public.

The National Fraud Initiative (NFI) is the Audit Commission's data matching exercise that tackles a broad range of fraud risks faced by the public sector. The NFI has been embedded in the statutory external audit process for audited and inspected bodies since 1998 and is currently run every two years.

The Audit Commission processes data under its statutory powers, which are set out in Part 2A of the Audit Commission Act (1998). These powers put data matching on a statutory footing for local government.

Equivalent legislation is expected to be provided in due course for Scotland but, until then, NFI will continue to operate in Scotland as part of the statutory audits.

The National Fraud Initiative compares different sets of data such as payroll or benefit records, against other records held by the same, or another organisation, bringing to light potentially fraudulent claims and payments. Where a match is found, this means there may be a discrepancy that needs investigation.

The use of data for NFI purposes continues to be controlled to ensure compliance with data protection and human rights legislation.

The Council takes part in National Fraud Initiatives as relevant to Scotland

### **Service Level Agreements with external stakeholders**

The Council has agreements on information sharing and joint working processes with other departments and organisations as appropriate

### **Fraud Hotline**

The Council has a Fraud Hotline Service. Manned during the day, answer machine at night and at weekends, this free telephone service allows individuals to refer possible fraud cases anonymously or not as preferred – 0800 085 2289

### **Investigations**

Benefit Fraud Investigations will be managed and carried out in a manner consistent with this Anti Fraud and Anti Corruption Policy and in conjunction with the Benefit Sanction Policy ([www.dundee.gov.uk/fraud](http://www.dundee.gov.uk/fraud)).

### **Code of Conduct for Investigators**

Benefit Counter Fraud Officers adhere to the agreed Code of Conduct that has been produced to cover Benefit Fraud Investigations. You can view this code on the Council's internet site: [www.dundee.gov.uk/fraud](http://www.dundee.gov.uk/fraud)

### **Investigation Targets**

The Counter-fraud Team has internal targets for many aspects of our investigatory work and strives wherever possible to improve its service on an ongoing basis.

### **Counter Fraud Section**

MANAGER  
SUPERVISOR  
REVENUES OFFICER  
INVESTIGATIONS OFFICERS X 5  
BENEFIT ASSISTANTS X 3

The Counter Fraud Team work to strict legislative procedures such as:

- Social Security Administration Act 1992 and all subsequent amendments
- Welfare Reform Act
- Human Rights Act
- Data Protection Act
- Regulation of Investigatory Powers (Scotland) Act
- Criminal Procedures (Scotland) Act
- Best practice, where it can be applied to Scotland, as contained in the Police and Criminal Evidence Act

### **Counter Fraud Section Remit**

- to investigate benefit fraud referrals
- to be proactive in identifying high risk areas of benefit fraud
- carry out investigations in a manner which complies fully with all relevant legislative acts

### **Counter Fraud Qualifications**

All investigatory officers within the Revenues Division are required to hold or study for accreditation as a Counter Fraud Officer

The manager must be qualified as an Accredited Counter Fraud Manager

The course of study is undertaken via the Department for Work and Pensions Professionalism in Security Training

### **How are fraudsters caught**

- strict verification & validation of benefit application forms requiring supporting evidence of income
- by you reporting possible benefit fraud cases to us
- information from other council departments, organisations & agencies
- data matching benefit records with other departments within the Council and agencies such as the DWP & Inland Revenue
- pro-active work to specifically target high risk categories of fraud

### **Referring a Benefit Fraud Case**

Fraud referrals can be referred to the Council by using:

- hotline - **0800 085 2289** which is manned during the day and on answer phone at night and at weekends. Referrals can be made anonymously if preferred.
- internet referral form - [www.dundee.gov.uk/fraud](http://www.dundee.gov.uk/fraud)
- letter to the Revenues Division, Counter Fraud Section, P O Box 216, Dundee, DD1 3RE
- phone call to (01382) 431253
- if there is a suspicion of fraud by a member of staff please contact the Counter Fraud Manager on 01382 431255 to have your referral progressed in confidence

### **Action the Counter Fraud Section will take**

- assess the referral for content
- if taken on for investigation the referral content will be used to determine what action should be taken
- request information from the benefit fraud national database as to whether the claimant has offended previously
- make initial enquiries to confirm if referrers suspicions can be substantiated which allows us to take the investigation further
- approach all relevant sources of information such as employers / financial institutions / linked individuals as appropriate to establish if there is any substance to the allegation
- where appropriate use legislative authority to gather all information pertinent to the investigations
- if our investigation supports the allegation or uncovers any other type of benefit fraud then the details will be confirmed by documentary evidence and witness statements
- invite claimant into tape recorded interview under caution
- assess whether intent to defraud has been proven by assessing the overall situation using as the basis the documentary evidence, witness statements and interview under caution transcript
- assess whether there has been a fraud offence committed.
- assess whether sanction action is appropriate  
(Administrative Caution, Administrative Penalty, Report to the Procurator Fiscal)
- If there are exceptional circumstances, this will be taken into consideration when determining both appropriate sanction action and also any appropriate disciplinary action
- request that the benefit be reassessed where appropriate
- take sanction action as appropriate
- assess for Financial Investigation under proceeds of crime and action accordingly
- report information to national benefit fraud database
- recover overpaid benefit and any Administrative Penalty

### **Fraud Referral Quality Assessment**

All referrals received by the Counter Fraud Section are reviewed for content with a view to embarking on a full investigation. The Council has a Referral Quality Assessment procedure in place which is specifically designed to assess the content of referrals and their suitability for investigation.

In certain situations the matter may not be progressed by the Counter Fraud Section such as where:

- there is insufficient information to take the case forward
- the information is known to the council already
- it is a repeat allegation that has already been actioned
- the matter has already been declared to the Council by the benefit claimant and is awaiting processing
- the possible change to benefit will result in an increase in the benefit award
- the referral content will result in no change to the benefit
- the matter is already being actioned by our Benefit Processing Section
- the fraudulent activity relates to a person under the age of 18
- the referral relates to someone with Severe Mental Impairment
- the allegation is such that there is likely to be very little possibility to take the case to prosecution or administer one of the lesser sanctions and we are at our full caseload capacity for commencing lower level investigations

However, your referral will always be actioned where there is any action to be taken and so will be forwarded to one of the following:

- Department for Works and Pensions to investigate where a DWP benefit is in payment
- Revenues Division's Visiting Section
- Revenues Division's Benefit Processing Section

### **ALL REFERRALS ARE IMPORTANT TO THE COUNCIL!**

Please take some time to visit the Council's website information on counter-fraud at :-  
[www.dundee.gov.uk/fraud](http://www.dundee.gov.uk/fraud)

### **Multiple Referrals**

Where multiple referrals relating to the same individual either alleging different benefit offences or from different sources then the referral will be fast-tracked to investigation.

### **What should you refer**

- people who you think could be on benefits that have a working partner residing with them
- any information you know about people not declaring income to the Council or the Department for Work and Pensions
- situations where people you think are on benefit but who seem to have enough spare money to spend on material goods etc
- people boasting about defrauding
- anything you think might be worth referring.

The team would rather get a lot of referrals that are subsequently found not to be linked to a fraudulent benefit claim than not get these and possibly miss one that is!

### **What sort of information should you include in your referral**

- name(s)
- address(es)
- what you think the fraud is - what income or household circumstances are involved
- any known daily times or patterns linked to the possible fraud
- if you are telling us about a 'living together' situation tell us where claimant and partner are employed
- descriptions
- vehicle(s) make, model, colour, registration & if appropriate, why you believe it is linked to the possible fraud
- any reason to suspect violent behaviour
- anything you think might be useful

NB: please be aware that you should report only what you know and that on no account should you endeavour to 'find out more' about any persons movements as you may then be acting unlawfully!

### **Feedback and Data Protection**

Where name and contact details of the referrer are provided with the referral the Council will acknowledge receipt of the referral.

In order to comply with the Data Protection Act 1998 the Council will not be able to provide any feedback information to the public on what action is taken on the referral or the outcome of any investigation as to give information to a third party would be a contravention of the Act.

### **Benefit Fraud Offences**

- knowingly providing false information
- knowingly failing to report a change of circumstances
- knowingly allowing another to defraud

## **Action the Council takes against benefit fraudsters**

- Reassess benefit
- Recovery of overpaid benefit obtained because of the Fraud Offence
- Administrative Caution
- Administrative Penalty
- Prosecution
- Report on Proceeds of Crime to the Department of Work and Pensions Financial Investigators

## **Repeat Offending**

Where it is established that an individual has committed a previous benefit offence and the investigation leads to a proven fraud, the Council will report the matter to the Procurator Fiscal irrespective of the period of the offence and the amount of overpaid benefit due to the offence.

## **Successful Prosecution possible repercussions**

- Named in local press
- Named in national press
- Listed on National Benefit Fraud Database
- Criminal Record
- Community Service
- Fine
- Custodial Sentence
- Compensation Order against you for payment

## **Proceeds of crime**

The Council aims to identify cases where there is evidence of possible proceeds of crime:

- reviewing financial intelligence gathered during investigations
- referring any cases with an overpayment level of £10,000 or more to the Department for Work and Pensions Financial Investigation Unit
- working jointly with the Department for Work and Pensions Financial Investigation Unit

## **Working with the Police**

Dundee City Council is keen to build on our relationships with our stakeholders and where appropriate will:

- liaise with the Police on cases
- report any criminal activity other than benefit fraud offences as appropriate
- work with the Department for Work and Pensions on financial investigations
- receive and provide information, documentation and advice according to recognised legal gateways
- Utilise police detention procedures as appropriate

## **Working with the Department for Work and Pensions (DWP)**

The Council promotes joint interdepartmental working and joint working with external organisations where that work will promote securing the gateway to fraud.

The Council will continue to work closely with the DWP by:

- complying with our joint working agreement to our mutual benefit
- working jointly on sanction cases  
(Administrative Caution, Administrative Penalty, Report to the Procurator Fiscal)
- ensuring that joint working cases referrals are actioned proactively

## **Managing Expectations**

It is very important that the fraud section take action against perpetrators of benefit fraud and we aim to report to the Procurator Fiscal where appropriate.

Our risk assessment and working procedures are designed to prioritise the more serious cases of benefit fraud and to concentrate our resources on the referrals that are most likely to lead to prosecution. However, we are also aware of the need to tackle all levels of benefit fraud and specific initiatives are implemented to ensure that we do this and that we take appropriate action against all proven fraud cases

When we receive a referral, there is a requirement to ensure that there is substance to the allegation so that we can justify taking investigative action and committing our resources. All referrals are therefore subject to a referral quality assessment procedure and a series of checks and if there is enough for us to go on then your referral will be allocated to an investigator.

It is of course frustrating not to know what action is being taken regarding the referral but investigative work needs to be confidential as it is illegal to provide information to anyone other than those individuals who have a legal right to the information.

It is also important that, until such time as a fraudulent claim to benefit is proven, the person being investigated has not committed any offence and as such is entitled to the same rights of confidentiality as anyone else.

Because of this a referrer cannot be kept informed as to the progress of any investigation other than an acknowledgement that we have received the referral and our assurance that the content of your referral will be treated as important. Even if the referral is not suitable for investigation by the Counter-fraud Section, where appropriate it will be used to ascertain if the benefit is correct.

Your information is always appreciated!

## **Interview Under Caution**

During investigations, where there are grounds to suspect that a benefit fraud offence has been committed, the perpetrator, and any associate, who may be part of the offence will, where appropriate, be interviewed under caution which will be tape recorded. All individuals will be invited to the interview under caution by letter, unless there are specific reasons for the interview to be convened differently, and an explanatory leaflet about this type of interview and what to expect is issued with the letter.

## **Involving the Public**

In order to fulfil our remit of deterring, detecting and preventing benefit fraud it is necessary to interview members of the public in connection with discrepancies in their benefit claims. Dependent upon the circumstances and seriousness of the case, individuals may be interviewed in their own homes or at a suitable Council office.

Interviews being held in the Council's offices will be recorded. Interviews that are held in the Tayside Police Headquarters will be recorded also. The individual concerned can obtain a transcript of the interview if they request it. A master recording will be signed and sealed in the presence of the interviewee and retained by the Council for use if the matter is referred to the Procurator Fiscal for prosecution.

Where the Council requires information and documentation about an individual and where that information or documentation is necessary to the investigation, the Council's Investigating Officers will use their legislative powers to obtain it and do not need the individual's permission to do this.

## **Involving Businesses**

The Council's Counter Fraud Officers are Authorised Officers under Section 109 of the Social Security Administration Act 1992 and therefore have the authority to visit or contact any property from which a business is being run from, or where there is reason to believe that a business is being run from, in order to request any pertinent documentation or information and to interview any individuals found on the premises.

It is an offence to obstruct a Fraud Officer who is requesting information and such cases will be reported to the Procurator Fiscal for proceedings.

## **Training**

The Council's Benefit Fraud Investigation Officers must either be fully Accredited Fraud Officers under the Professionalism in Security Training Program (PINS) or be prepared to undertake the study to become fully accredited.

Further training is continually being sourced to ensure that Counter Fraud Officers' skills are kept up to date.

## **Equality Impact Assessment (EQA)**

As per the Equality Bill 2006 this policy has been EQA'd which led to an expansion of the factors used in assessing a case for being in the public interest to report to the Procurator Fiscal but other than that no concerns were raised.

## **Publicity**

In order to deter future fraudulent activity, where a case is referred to the Procurator Fiscal for criminal proceedings and is subsequently brought to court, the Council may publicise the details in the local press.

## **Quarterly Fraud Section Performance Reports**

The Director of Finance provides quarterly Counter-fraud Performance Reports for the Elected Members which, once approved are viewable on the Councils Internet and intranet sites.

**This policy document is a living document, designed to evolve over time to incorporate new legislation and best practice.**