

DUNDEE CITY COUNCIL

REPORT TO: FINANCE COMMITTEE – 9 JUNE 2003

REPORT ON: ANTI FRAUD AND CORRUPTION POLICY AND STRATEGY ON LOCAL TAXATION AND BENEFITS

REPORT BY: DIRECTOR OF FINANCE

REPORT NO: 341- 2003

1.0 PURPOSE OF REPORT

- 1.1** This report is a revision of the current Anti Fraud & Corruption Policy which sets out Dundee City Council's commitment to the prevention and detection of fraud in respect of Local Taxation and Benefits. It summarises the responsibilities of members, Management and employees and outlines the procedures to be followed where suspicion of irregularity is raised.
- 1.2** This report also includes a revision of Dundee City Council's policy on the taking of sanction action against persons who have committed criminal offences against the Authority in respect of Local Taxation and Benefits.
- 1.3** The report details the Code of Conduct for Investigators

2.0 RECOMMENDATION

- a)** That the Committee adopts the Anti Fraud and Corruption Policy together with the Sanction Policy both of which are attached. (See Appendix 1)
- b)** That the Committee resolves to adopt the Code of Conduct for investigators attached. (See Appendix 2)
- c)** That the Committee agrees to the Council becoming part of the National Fraud Hotline

3.0 FINANCIAL IMPLICATIONS

The cost of operating the Sanction Policy will be contained within the Council's existing resources.

Additional income is likely to be generated through Sanction Action although the level of such income cannot at present be quantified.

The National Fraud Hotline will be funded by the Department for Work and Pensions

4.0 LOCAL AGENDA 21 IMPLICATIONS

None

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

None

6.0 POLICY

6.1 Dundee City Council is committed to the prevention, deterrence, detection and investigation of all forms of fraud.

6.2 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".

7.0 STRATEGY

The Strategy to be adopted in carrying out the policy contained within 6.0 above is set out in Appendix 1.

8.0 CODE OF CONDUCT

The Code of Conduct to be adopted by Investigators is detailed in Appendix 2.

9.0 NATIONAL FRAUD HOTLINE

9.1 An Anti Fraud Hotline has been established in order to allow members of the public to inform the Council anonymously of possible acts of benefit fraud that to their belief and knowledge are being committed.

9.2 Dundee City Council has also noted its interest in joining with the Department for Works and Pensions National Benefit Fraud Hotline which has a similar function to the local hotline but on a national basis.

10.0 CONSULTATION

The Chief Executive, the Director Personnel and Management Services, the Director of Support Services and the Unions have been consulted on this report.

11.0 BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 other than containing confidential or exempt information) were relied on to any material extent in preparing the above report.

The Council will look to revise this policy document as and when necessary.

DAVID DORWARD
DIRECTOR OF FINANCE

DATE 29.5.03

DUNDEE CITY COUNCIL**DRAFT ANTI FRAUD AND ANTI CORRUPTION POLICY**

This policy document sets out Dundee City Council's revised commitment to the prevention and detection of benefit fraud in respect of Housing Benefit and Council Tax Benefit and that, where this commitment could have implications for Department for Work and Pensions Benefits, the Council is further committed to fulfilling this commitment through working closely with this organisation while strictly adhering to all relevant legislation.

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".

In revising this policy the Council aims, where possible, to aim for compliance with Performance Standards guidance as provided by the Department for Work and Pensions.

PREVENTION**1 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.

2 The Role of Management

Management at all levels are responsible for ensuring that their staff are aware of the Authority's Schemes of Administration, ie 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 the internal control system 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 Benefits 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 the Internal Audit Section, the Director of Personnel and Management Services Department and the Director of Support Services.

3 Responsibilities of Employees

Local Government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors, Management and fellow employees with impartiality. Employees will be expected to bring to the attention of the appropriate level of Management any significant impropriety or breach of procedure that would impact on the provision of the Local Taxation and Benefits Service.

Employees should be aware of this commitment to working to the highest standards and that any fraudulent activity on their part in relation to their own departments, or the Finance Department which includes Housing Benefit and Council Tax Benefit or any other fraudulent activity which is deemed as bringing the Council into disrepute, will be subject to disciplinary procedures.

Employees working in the Benefits administration area of the Revenues Division of the Finance Department will continue to be prohibited from dealing with any work related matters that affect their relatives.

In addition, staff should seek guidance from their line manager on any occasion where there is doubt as to whether it is appropriate for a member of staff to deal with a particular account.

4 Role of the Audit Sub-Committee

The role of the Audit Sub-Committee includes:

- promoting the prevention and detection of fraud
- promoting an awareness of the importance placed by the City Council on internal control and a corporate commitment to an anti-fraud culture among Councillors, employees and the public
- considering External and Internal Audit reports.

5 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.

6 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.

7 Service Level Agreement with the Department for Work and Pensions

The Council will liaise where appropriate with outside organisations to lay down Service Level Agreements for closer working. However, these agreements will necessarily be subject to either organisation's resources at any given point in time.

DETERRENCE

1 Interviews Under Caution

During investigation should there be any reasonable suspicion that a benefit fraud offence has been committed, the perpetrator, where appropriate, will be interviewed under caution using taping procedures.

2 Repayment

The Council will seek repayment of any incurred Housing Benefit or Council Tax Benefit overpayment which has arisen as a result of fraudulent activity

Where an individual has committed benefit fraud Dundee City Council will, where appropriate under Housing Benefit Regulations, seek to recover the overpayment in full, taking all legal steps to ensure this is completed timeously.

All costs incurred in this process will be passed onto the debtor.

3 Administrative Cautions

Where an individual has committed benefit fraud

- which results in a benefit overpayment of under £400 or
- the circumstances of the case merit a more serious form of deterrent action over and above the recovery of the overpaid benefit(s).

The Council will review the circumstances of each case individually and where the case is deemed suitable for an Administrative Caution, this sanction will be offered to the individual. Should the individual refuse the Administrative Caution, the Council will assess the matter with a view to prosecution where appropriate.

Any Administrative Caution accepted will be in addition to the repayment of the overpaid benefit(s) as a result of the fraudulent activity.

All Administrative Cautions accepted shall be recorded and both those and any other form of sanctions previously imposed by the Council or the Department for Work and Pensions in relation to benefit fraud perpetrated by the same individual, will be taken into account when determining the level of deterrent action to be taken against that individual should they re-offend.

4 Administrative Penalties

Where an individual has committed benefit fraud

- which results in a benefit overpayment of between £400 - £1499 or
- where the overpayment is under £400 but the circumstances of the case merits a more serious form of deterrent action over and above the recovery of the overpaid benefit(s) and the offering of an Administrative Caution (or where an Administrative Caution does not apply),

the Council will review the circumstances of each case individually and where the case is deemed suitable for an Administrative Penalty this sanction will be offered to the individual. Should the individual refuse the Administrative Penalty the Council will assess the matter with a view to prosecution where appropriate.

Any Administrative Penalty accepted will in addition to the repayment of the overpaid benefit(s) as a result of the fraudulent activity.

All Administrative Penalties accepted shall be recorded and both those and any other form of sanctions previously imposed by the Council or the Department for Work and Pensions in relation to benefit fraud perpetrated by the same individual, will be taken into account when determining the level of deterrent action to be taken against that individual should they re-offend.

5 Prosecutions

Where an individual has committed benefit fraud

- which results in a benefit overpayment of £1500 or more or
- where the benefit overpayment is under £1500 but there has been previous fraudulent activity by the individual recorded either by the Council or the Department for Work and Pensions or
- where the circumstances of the case merits a more serious form of deterrent action other than the offering of an Administrative Caution or an Administrative Penalty

the Council will review the circumstances of each case individually and where the case is deemed suitable for prosecution in accordance with the Council's Sanction Policy, the matter will be reported to the Procurator Fiscal for proceedings.

Where a case is reported to the Procurator Fiscal for proceedings, this will be in addition to the repayment of the overpaid benefit(s) as a result of the fraudulent activity.

All Prosecution cases reported to the Procurator Fiscal shall be recorded and both those and any other form of sanctions previously imposed by the Council or the Department for Work and Pensions in relation to benefit fraud perpetrated by the same individual, will be taken into account when determining the level of deterrent action to be taken against that individual should they re-offend.

Dundee City Council's Sanction Policy is included at the end of this policy document.

In revising the existing Sanction Policy, consideration was given to the criteria adopted by the Department for Work and Pensions in order to maintain a consistency of approach throughout this area of work.

6 Debt Management System

The Council will continue to monitor and improve, where appropriate, its Housing Benefit Overpayment Debt Management System. Every effort will be made to recover all overpayments, whilst at the same time taking into account all the circumstances surrounding the overpayment together with the debtor's circumstances.

The recovery of fraudulent benefit overpayments will be given priority.

7 Landlords

The Council is seeking to re-establishment the lapsed Private Landlords Forum which was set up to allow an exchange of views between Private Landlords and the Council to discuss the operation of the Housing Benefit System. Such a forum already exists with regard to Housing Associations.

Any act of fraud committed by a landlord will be dealt with in accordance with the policy and procedures detailed in this report.

8 Local Council Anti Fraud Hot Line

An Anti Fraud Hot Line has been established in order to allow members of the public to inform the Council anonymously of possible acts of benefit fraud that to their belief and knowledge are being committed, this being a recommendation of the Benefit Fraud Inspectorate. Such information would be given in the strictest confidence and investigated in an appropriate manner.

9 National Anti Fraud Hot Line

Dundee City Council has noted its interest in joining with the Department for Work and Pensions National Benefit Fraud Hot Line.

This will be in addition to the Council's Local Anti Fraud Hot Line and together these free telephone contacts should work to maximise the reporting of possible discrepancies for investigation

10 Data Matching relating to the detection of benefit fraud

The Council will continue to carry out data matching exercises as resources allow.

11 Fraud Awareness

Subject to negotiation with the various departmental directors within the Council and all relevant external organisations, the Council will plan a rolling program of Fraud Awareness Sessions to further the commitment to tackling benefit fraud.

12 Publicity

Where a case is referred to the Procurator Fiscal for prosecution and is subsequently brought to court, the press office will be advised so that a reporter can attend court to cover the story. It is hoped that any resultant publicity will act as a deterrent to potential fraudsters.

Where appropriate the Council will publicise its counter fraud activity, Hotline service details and internet referral procedures.

A Benefit Fraud Poster will be prominently displayed in all Council Public Offices and a leaflet based on the poster will be issued with Revenues outgoing mail.

There will be a twice yearly publicity campaign scheduled to take place during May and November to highlight this serious issue.

DETECTION

1 The Role of Management

It is vital that Management at all levels ensure that adequate and effective safeguards are in place to prevent fraud.

2 The Role of Employees

Employees play an important role in detecting fraud. All employees should be encouraged to be vigilant against fraud.

3 The Role of Internal Audit

The responsibility for the detection of fraud rests with Management. Internal Audit will advise and assist Management in fulfilling their responsibility and may themselves investigate cases. There may be circumstances where auditors detect fraud as a result of the work that they are undertaking.

INVESTIGATIONS

1 Policy Statement

Benefit Fraud investigations will be managed and carried out in a manner consistent with the policy document

2 Business Plan

A Business Plan will be drawn up prior to the start of each financial year and Benefit Fraud Investigations will be managed in such a way as to fulfil, as far as possible, the scheduled activity as outlined in the Business Plan while maintaining professional standards

3 Code of Conduct for Investigators

Benefit Counter Fraud Officers will adhere to the Code of Conduct which has been produced to cover Benefit Fraud Investigations. (See Appendix 2)

4 Involving the Public

In order to fulfil our remit of 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 tape-recorded. The individual concerned can obtain a copy of the tape recording if they request it however the master tape 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 of a financial nature and the individual is refusing to provide this evidence, the Council will request this information from the organisations concerned in accordance with the appropriate agreements in place at the time of the request.

The Council will address its need to fulfil this role. The requesting of sensitive financial documentation should only be considered when all other avenues have been explored and there is a firm underlying case for requiring these details.

5 Involving Businesses

The Council's Counter Fraud Officers are Authorised Officers under 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.

Providing all the legislative and best practice guidelines are followed and where it is deemed appropriate, any proprietor refusing to provide necessary information will be reported to Procurator Fiscal for Prosecution.

6 Training

Council Benefit Counter Fraud 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.

The Benefit Counter Fraud Officers and Benefit Fraud Assistants will each have a quarterly personal assessment completed by their Supervisor tailored to their development.

Yearly employee development statements will be provided by each member of the Benefit Fraud Team as confirmation of the agreed roles each individual will play in the section.

7 Quarterly Fraud Section Performance Reports

The Fraud Manager will provide quarterly Fraud Section Performance Reports for the Head of Revenues and Directors of Finance and Housing in accordance with the Performance Standards as laid down by the Department for Work and Pensions.

8 Operational Procedures

A procedural manual, updated as appropriate for any legislative or procedural changes, will be maintained which will be available to all counter fraud staff.

9 Do Not Redirect Scheme

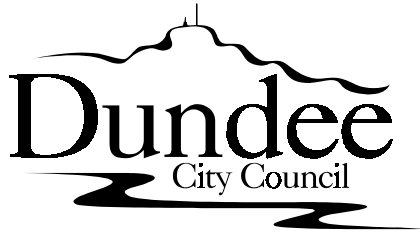
The Council will continue to operate the DNR Scheme.

10 Risk Assessment

All referrals for investigation will be subject to Referral Quality Assessment procedures to assess priority of the case.

The Counter Fraud Officers will use these RQA's to determine the work with the highest potential for sanction action and prioritise their work accordingly.

chwp1/Helen/POs/BM/Anti Fraud & Corruption Policy 28.5.03



DUNDEE CITY COUNCIL

SANCTION POLICY DOCUMENT

HOUSING BENEFIT AND COUNCIL TAX BENEFIT

Dundee City Council is committed to preventing and detecting Benefit Fraud and has adopted the policy of prosecuting any persons who have committed criminal offences against the Authority.

Where a case is identified for 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.

The offering of Administrative Cautions or Administrative Penalties will be at the discretion of the Council.

In considering suitability for Administrative Cautions, Administrative Penalties and Prosecutions the Council will take into account:

- Age
- Social Welfare
- Mental Health
- Physical Health
- Voluntary disclosure of any information
- Whether criminal intent can be demonstrated
- Fraud history
- Overpayment amount
- Quality of evidence
- Quality of investigation
- The length of time taken in the investigation
- Claimant being a member of staff
- Would public interest be best served by prosecuting
- Whether the claimant has declined a Caution or Administrative Penalty

This list is not exclusive or exhaustive and each case will be judged on its own merits as a whole with no single criterion being the deciding factor.

Should the perpetrator decline the offer of an Administrative Caution or an Administrative Penalty, the matter will be, where appropriate, 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 will publicise the details in the local press.

Chief Executive
Dundee City Council



CODE OF CONDUCT FOR INVESTIGATORS

CODE OF CONDUCT FOR INVESTIGATORS

7 Introduction

The process of professionalising counter-fraud work was launched with the publication of a Green Paper in March 1998 entitled "Beating fraud is Everyone's Business". In it the Government set out a number of objectives including the introduction of accredited training at foundation and advanced levels and the creation of a Code of Conduct and Good Practice for counter-fraud officers.

There should be clear principles of good practice outlining how anti-fraud officers should tackle fraud. They will utilise, objectivity, professionalism, expertise and propriety. They will seek to ensure that all anti-fraud work correctly identifies the guilty parties, while protecting the innocent from abuse, and minimising losses to public funds.

Based on these principles there should be a comprehensive code of conduct for anti-fraud staff. Drawing on the widest range of good practice, this code will further regulate methods of countering fraud and help ensure that the highest standards are applied and maintained.

The Green Paper concluded that the result of developing and applying these initiatives will be a body of highly skilled counter fraud officers working within a professional framework to the highest standards of performance and integrity.

8 Background

- 1 The introduction of the Code should not be read as a suggestion that there is general criticism of the behaviour of Fraud Investigators. However, it is important that such criticism is avoided, and that fraud staff are made aware of the behaviours, and practices that are expected of them.
- 2 The Code should not be read, or applied in isolation. It is cross-referenced to the disciplinary procedure already in place. As such it does not alter the existing terms and conditions of employment, or alter the current requirements on staff, as set out in the Council's Disciplinary Procedure, Employee Handbook and Job Descriptions.
- 3 Where an incident occurs, which is considered to be a breach of the Code by an investigator, it should be investigated in accordance with the Council's disciplinary procedure. Action on breaches of the Code should not be pursued without reference to the procedure, to ensure fairness to staff, and that objectivity is maintained in the investigation of alleged breaches.
- 4 There may be occasions where a breach is considered to have occurred but it is evident that the incident arose through incapability. Depending on the circumstances of the case this may be dealt with through remedial training.
- 5 Line Managers are required to ensure that all staff are given a personal copy of the Code and that signatures are obtained to confirm their receipt.
- 6 Individual Officers are required to read the code carefully and ensure they fully understand what is expected of them. Any concerns should be raised with the line manager initially but the Head of Revenues will always be available to give advice if required.

CODE OF CONDUCT FOR INVESTIGATORS

1 Application

- 1.1 This Code applies to all officers engaged in or acting on behalf of Dundee City Council carrying out duties involving the investigation of possible benefit fraud.
- 1.2 The Code is to be read together with the Council's Disciplinary Procedure, Employee Handbook and the relevant Job Description

2 Breach of the Code of Conduct

- 2.1 A breach of the Code of Conduct will be investigated and, where appropriate, dealt with under the Council's disciplinary procedure.
- 2.2 Incapability is not necessarily a breach of this code, and where it exists remedial training will be given.
- 2.3 Listed below are examples of factors which may be taken into account in determining the level of seriousness of any misconduct under the Code and determining the appropriate level of disciplinary sanction or penalty;

- ❖ whether in the view of the chairperson of the disciplinary hearing the misconduct resulted from a negligent or deliberate breach of the Code
- ❖ the effect of such a breach on any current or anticipated civil or criminal proceedings
- ❖ the effect of the breach on any current or anticipated investigation
- ❖ the extent to which a breach results in the unlawful interference with the rights of any individual as set out in the Human Rights Act or any amending or repealing legislation.

There may be other factors and each case will be judged on its merits.

3 Provisions

3.1 General conduct

Officers to whom the Code applies must not:

- ❖ exceed their actual authority or hold themselves out as having any authority not provided by legislation
- ❖ act in any way which exceeds the actual limits of their powers
- ❖ imply that they could act in any way which exceeds the actual limits of their powers
- ❖ misuse their official position for any benefit or gain for themselves or another

3.2 Legislation and other Guidance

Officers to whom the Code applies must:

- ❖ pursue all reasonable lines of inquiry (including those which may support the clients case)
- ❖ ensure that all material which may be relevant is recorded and retained

- ❖ ensure all applicable provisions of the Data Protection Act are observed in relation to the requesting or provision of information relating to benefit fraud work.
- ❖ ensure that the test of fairness is observed in relation to the gathering of evidence and the interviewing and treatment of claimants whose claim is under suspicion
- ❖ ensure that all applicable provisions of the Regulation of Investigatory Powers (Scotland) Act are observed in relation to directed covert surveillance
- ❖ observe all other applicable legislation and internal and external guidance

3.3 Evidence, Witnesses and Suspects

Officers to whom the Code applies must not under any circumstances:

- ❖ conceal or fabricate evidence or knowingly allow any evidence to be fabricated or concealed
- ❖ discriminate in accordance with the Council's Equal Opportunities Policy
- ❖ accept from or offer any inducement, bribe or other advantage to any witness, claimant or informant
- ❖ use any information gathered in the course of their duties for personal gain or coercion or otherwise misuse such information
- ❖ do anything which may result in a miscarriage of justice

3.4 Disclosure of Interests

Officers must declare any circumstances or interests which may affect their ability to conduct an investigation objectively.

3.5 Safeguarding Information

Officers must treat all information gathered or received during the course of an investigation as confidential and must not deliberately or negligently:-

- ❖ disclose such information to an unauthorised 3rd party
- ❖ reveal the source of information to an unauthorised 3rd party

3.6 Personal Injury and Damage to Property

Officers must exercise all reasonable care to prevent injury or loss or damage to public or private property and must not:

- ❖ enter public or private property except on the invitation of the occupier or other responsible person or police officer or to save life or prevent serious injury. In such a situation, officers must use their own judgement but must not put their life at risk.
- ❖ deliberately or negligently destroy or damage any property or evidence
- ❖ seize or retain any property or evidence without lawful authority
- ❖ use or threaten physical violence towards a colleague or member of the public.

Clarification on the application of the Code of Conduct may be sought from the Head of Revenues in cases of doubt or difficulty