

REPORT TO: FINANCE COMMITTEE – 12 JUNE 2006
REPORT ON: COUNTER-FRAUD REPORT 2005- 2006
REPORT BY: DEPUTE CHIEF EXECUTIVE (FINANCE)
REPORT NO: 364-2006

1.0 PURPOSE OF REPORT

1.1 This report is to inform the Elected Members on the Revenues Division's Housing Benefit and Council Tax Benefit Counter Fraud current activity

2.0 RECOMMENDATIONS

- approval of the attached Counter Fraud Performance Report
- approval of amendments to the Anti-Fraud and Anti-Corruption Policy - Appendix A

If approved, the Explanatory Document in the Members' Lounge will be updated accordingly

3.0 FINANCIAL IMPLICATIONS

3.1 None

4.0 LOCAL AGENDA 21 IMPLICATIONS

4.1 Benefit financial resources are used effectively by ensuring that fraudulent claims are withdrawn

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 None

6.0 BACKGROUND

6.1 The Benefit Fraud Inspectorate advised that the Elected Members should be kept informed about the activity being undertaken by the Counter Fraud Section. As a consequence, the Finance Committee at its meeting held on 14 June 2004 (Article IV(b) refers) agreed to adopt the procedure of quarterly reporting.

7.0 CONSULTATION

7.1 The Chief Executive and the Depute Chief Executive (Support Services) have been consulted on this report.

8.0 BACKGROUND PAPERS

8.1 None.

D K Dorward
Depute Chief Executive (Finance)

Date

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COUNTER FRAUD PERFORMANCE REPORT

2005-2006

COUNTER-FRAUD SECTION PERFORMANCE

1. INTRODUCTION

In July 2003 the Council was inspected by the Benefit Fraud Inspectorate. The resulting report, published on 05 February 2004, included various recommendations, one of which was to make Counter-Fraud operational information available to Elected Members. To address this recommendation, the June 2004 Finance Committee agreed to adopt quarterly reporting.

2. INCOME RECEIVED BY COUNCIL FROM THE COUNCIL'S COUNTER FRAUD ACTIVITY

Financial year to date report – April to March 2005-2006

INCOME SOURCE		COUNCIL TENANTS HOUSING BENEFIT	PRIVATE TENANTS HOUSING BENEFIT	COUNCIL TAX BENEFIT	DWP	TOTALS
* Benefit Overpayments		£	£	£	£	£
	Classified as Fraud	19,923	12,746	15,195		47,864
	Classified as Claimant Error	26,765	29,262	28,708		84,735
Incentive Rewards						
	Classified as Fraud	1,730	1,715	715	450	4,610
	Classified as Claimant Error	2,780	2,035	1,385	0	6,200
Sanction Income						
	Administrative Cautions (10)					12,000
	Administrative Penalties (17)					20,400
	Prosecutions					
	Citation Rewards (4)					6,000
	Successful Prosecution Rewards (3)					8,000
Administrative Penalty Recovery						4,020
TOTALS		51,198	45,758	46,003	450	£193,829

* The Council receive a 40% reimbursement on overpayments therefore the reporting reflects 40% of the overpayment levels actually accrued.

Comparison of Sanction Income

	Administrative Cautions		Administrative Penalties		Prosecutions to witness citation stage		Prosecutions to successful guilty verdict stage		Totals	
	£		£		£		£		£	
	2005/6	2004/5	2005/6	2004/5	2005/6	2004/5	2005/6	2004/5	2005/6	2004/5
Sanction Income	12,000	2,400	20,400	4,800	6,000	1,200	8,000	2,000	46,400	10,400
Penalty Recovery	N/A	N/A	4,020	2920	N/A	N/A	N/A	N/A	4,020	2920

(Penalty Recovery is only applicable to Administrative Penalties)

3. REDUCTION & CESSATION OF BENEFITS Financial year to date report April to March 2005-2006

Whilst this report primarily deals with our investigations that result in fraud proven, there is a secondary tier of benefit action resulting from the Counter-Fraud Section where investigations fall short of proving that a fraud offence has been committed but the work that the officers have done on a case results in the benefits being reduced or withdrawn or a combination of both over the period of time the investigation centred on.

Taking into consideration this fraud not proven category, there have been 395 completed investigations with 174 resulting in a reduction or withdrawal of benefit.

This demonstrates that out of all the cases investigated by the Counter-Fraud Section throughout the financial year 2005-2006, 44% have established that the benefit claimants' failed to provide correct information when claiming benefit.

4. PROSECUTIONS

Comparison of prosecution status for end of year

2004-2005	2005-2006	Stage
3	3	Successfully prosecuted
2	3	Not prosecuted by Procurator Fiscal
0	2	Not guilty plea
9	4	Referred for prosecution
0	1	Joint investigation with the DWP referred to the Procurator Fiscal by the DWP's Fraud Proceedings Unit
0	1	Closed due to delay waiting on an adjudication from the DWP on DWP benefits
0	1	Lesser sanction offered and accepted

5. PERFORMANCE STANDARDS FRAUD RETURNS

The Performance Standards relating to benefit fraud have been reviewed by the Department for Work and Pensions and there are now Benefit related Performance Standards with each one having various enablers. These enablers are procedures and processes that need to be in place to underpin the actual Standard. The Council cannot be said to have reached the Performance Standard until both the standard and the enablers are all in place.

There has been no indication as yet from the Department for Work and Pensions as to what these returns mean in real terms, whether they indicate good or bad performance levels by the section, but any further information relating to this will be reported in later reports.

Out of the 19 Performance Standards for benefit fraud there are six performance measurements.

- **No of fraud referrals per 1000 caseload**

For the quarter January to March 2006 the Counter-Fraud Section reported receiving 233 referrals.

The average benefit caseload over the quarter (no of people on Housing Benefit and Council Tax Benefit) was 21,621. This then resulted in a performance measure of 10.5 for this statistic.

- **No of fraud investigators employed per 1000 caseload**

For the quarter January to March 2006 the Counter-Fraud Section have had the full compliment of 5 Investigating Officers. With the average caseload figure of 21,621 for the quarter, the return for this performance measure was 0.23.

- **No of fraud investigations per 1000 caseload**

For the quarter January to March 2006 the Counter-Fraud Section reported having 105 completed cases. With the average caseload figure of 21,621 the quarterly return for this performance measure was 4.86.

- **No of successful sanctions per 1000 caseload**

This return is based on the no of sanction cases the council has had. Sanction cases are those where the council has deemed the case suitable for prosecution and has imposed an Administrative Caution, an Administrative Penalty or reported the matter to the Procurator Fiscal.

This performance measure only takes account of sanctions as they appear on the council's official quarterly return to the DWP and does not pick up on any successful sanctions coming to completion in the interim.

There have been 37 successful sanctions in 2005-2006. With the average caseload of 21,621 for the Quarter January – March 2006, the return for this Performance Standard was 1.71.

- **Time measure on the time taken from receipt of a referral to the referral content being assessed and determining appropriate actioning of the case. The Performance Standard is for this transitional stage to be completed in an average of 10 working days.**

For the quarter January to March 2006, 96% of referrals met the standard..

- **Time measure on the time taken from assessing the referral content for appropriate action to the Investigation Officer starting the investigation. The Performance Standard is for this transitional stage to be completed within an average of 10 working days.**

For the quarter January to March 2006, 40.5% of referrals met the standard.

6. SANCTION VARIANCES

As per the Benefit Fraud Inspectorate's recommendation, Elected Members are to be updated about any cases where the sanction action taken against a person, who has committed a benefit fraud offence, is at variance to our current Anti Fraud & Anti Corruption Policy. For this quarter January to March 2006 there has been only one variance.

The case in question had an LA/DWP combined overpayment normally within the prosecution range, but the DWP who had the lead in this instance took the view that as the claimant was moving out with the area within the week and because there were possible difficulties with securing a prosecution when the claimant was no longer in Scotland they wanted the matter concluded quickly and so opted to impose an Administrative Penalty.

The Anti-Fraud and Anti-Corruption Policy and Benefit Sanction Policy have been updated to reflect the variances identified to date - see Appendix A

7. JOINT WORKING SANCTIONS

Through continuing joint working between the Council's Counter-Fraud Section and the Department for Work and Pensions Counter-Fraud Investigation Service there have been ten joint working sanctions for the financial year 2005-2006, 7 Administrative Cautions and 3 Administrative Penalties.

8. JOINT WORKING SANCTION VARIANCES

For the financial year 2005-2006 there have been a total of four variances resulting from joint working cases as reported throughout the year in Section 6 SANCTION VARIANCES

9. RESOURCES

The Counter-Fraud Section is now running at full strength with 5 Investigating Officers, one of which is employed on a temporary basis. The temporary resource of this Investigating Officer and a supporting Clerical Officer is having a major impact on the no of investigations that are being carried out and the volume of proven fraud outcomes resulting from the increase in investigations. There are currently 174 ongoing investigations compared to 118 at this time last year and the proven fraud percentage has increased from 16% to 22%.

This temporary Fraud Officer post is due to end on 21 August 2006 and the supporting Clerical Officer post on 17 July 2006.

10. RECOVERY OF BENEFIT FRAUD OVERPAYMENTS

For the financial year 2005-2006, 77.2% of fraud overpayment cases have either been repaid in full or are being recovered.

The 77.2% is broken down as follows: 35.3% have been paid in full, 29% are being repaid by automatic deductions from ongoing benefit entitlement, 4.3% are being recovered via the Sheriff Officer and the remaining 8.6% have repayment arrangements in place.

11.2% of cases have been written-off or are non-recoverable. Procedures have been implemented to show a breakdown of these items separately in future reports.

Write Off Cases

Write Off cases are where the council could recover the overpayment but for various reasons this is not possible such as instances where the debtor has moved away, deceased cases, and any other situation where the recovery process has been exhausted. However, cases that are written off are reviewed annually to pick-up on any cases where recovery can recommence e.g. forwarding addresses becoming known.

Non-Recoverable

Current legislation makes certain cases non-recoverable such as instances where the debtor could not have been expected to know that the overpayment had occurred, technical error, LA or DWP error.

The remaining 11.60% of cases are at the various stages of recovery for debtors that have failed to put repayment measures in place. The Council actively pursues all debtors by invoking all legal measures to increase debt recovery. However, anyone who has a debt with the Council should be aware that once the first step is taken to contact us about the matter then mutually suitable arrangements can be put in place, relieving the debtor from the worry of this debt and enabling the Council to reduce the level of debt overall.

Comparison of Recovery Achieved

Paid in full		Automatic deductions from ongoing benefit entitlement		Arrangement in place		Sheriff Officer recovery in place		Total % cases recovered or where recovery in place	
%		%		%		%		%	
2005/6	2004/5	2005/6	2004/5	2005/6	2004/5	2005/6	2004/5	2005/6	2004/5
35.3	35	29	22	8.6	10	4.3	N/A	77.2	67

(N/A – statistics not available)

11. COUNTER-FRAUD REFERRALS

Reporting from the start of this financial year the Counter Fraud Section has received 925 referrals covering 27 different Fraud Types. 41 referrals have come in from sources within the Council but outwith Revenues, 579 from external sources, and the balance of 305 originating from within Revenues. Within the external source referrals the public have provided the Council with 316 referrals which is just over 34% of our referral total for the financial year 2005-2006.

The most prolific referral fraud type for the year to date is referrals alleging that benefit claimants have failed to declare a partner in the property and accounts for 40.5% of referrals followed by allegations of benefit claimants failing to declare earnings which accounts for 18% of our referrals this year so far.

Comparison of referrals received

Council Non-Revenues		Revenues		External to Council		Totals		Public (included in External to Council count)	
Nos		Nos		Nos		Nos		Nos	
2005/6	2004/5	2005/6	2004/5	2005/6	2004/5	2005/6	2004/5	2005/6	2004/5
41	31	305	561	579	514	925	1106	316	198

12. COUNTER-FRAUD IMPACT ON BENEFIT PROCESSING

Between January to March 2006 there have been no further matters raised from the Counter-Fraud Section that have required action by Revenues in order to secure the benefit system further against fraud.

13. INVESTIGATION PERCENTAGE SUCCESS RATE

For the period January to March 2006 the Counter Fraud Section has averaged a 22% success rate (proven fraud) on cases closed and there are currently 174 ongoing investigations.

Comparison of percentage success

	2005-2006	2004-2005 Comparison
Percentage success rate on case closures	22%	16%
No of live investigations	174	118

14. COMPLAINT MONITORING

There have been no complaints received in relation to Counter Fraud activities in the fourth quarter of the financial year 2005-2006.

D K Dorward
Depute Chief Executive (Finance)

Date

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APPENDIX A

ANTI-FRAUD & ANTI-CORRUPTION POLICY AMENDMENTS

As there are only a few amendments to the policy, this summary has been prepared noting the proposed amendments to the policy and where in the policy each change can be found.

Heading(s)	Change from previous policy	Page No
Publicity	The text relating to publicity has been updated	Page 16
Detention of individuals	This is an addition to the policy and covers our current procedures when a benefit claimant refuses to attend an interview under caution	Page 17
Benefit Sanction Policy	This is an additional item and notes that all policy variances identified will be incorporated into the policy as soon as practicable	Page 23 Paragraph 2
Benefit Sanction Policy	This is an additional item and covers a case where the offender is the partner of the benefit claimant and the case is suitable for an Administrative Penalty	Page 23 Paragraph 4
Benefit Sanction Policy	This is an additional item noting that it will be taken into account when considering sanction action cases where the offender holds a position of trust in society and / or is an employee of the council	Page 23 Paragraph 5
Benefit Sanction Policy	This is an additional item and enables the council to amend Housing Benefit and Council Tax Benefit where the evidence is sufficient and for whatever reason the DWP have not amended their benefits. Although this will happen very rarely there are various circumstances that would call for the council adopting this action such as if a case is for a past period and the DWP no longer hold sufficient records to allow them to amending the benefit	Page 23 Paragraph 6
Benefit Sanction Policy	This is updated text covering joint working procedures with the DWP	Page 23 Paragraphs 7,8 & 9



DUNDEE CITY COUNCIL

ANTI FRAUD AND ANTI CORRUPTION POLICY

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DUNDEE CITY COUNCIL

ANTI FRAUD AND ANTI CORRUPTION POLICY

This policy document sets out Dundee City Council's 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.

THE REVENUES DIVISION'S VISION STATEMENT

The Revenues division embraced 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 and accurate and secure from fraud and error.

FRAUD POLICY STATEMENT

The Council is committed to protecting public funds and tackling benefit fraud.

The activities undertaken by the Council to prevent, deter, detect and investigate benefit fraud, prosecuting offenders where appropriate, are supported by policies designed to reinforce the culture of integrity and accountability of members, staff, Council stakeholders and claimants while documenting the measures the Council will implement if benefit fraud is detected.

The Council Policies relating to benefit fraud interlink to create a working blueprint which governs our activities and aims to provide an effective and efficient service. The Anti Fraud and Anti Corruption Policy is linked to the Councils Benefit Sanction Policy and investigations are carried out in compliance with the Fraud Investigators Code of Practice.

In our investigations, the Council aims to treat people from all sectors of the community with dignity and respect and without discrimination.

PREVENTION

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 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 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 the Internal Audit Section, the Assistant Chief Executive (Management) and the Deputy Chief Executive (Support Services).

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, other Council 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.

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.

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.

Service Level Agreements with stakeholders

The Council will liaise where appropriate with outside organisations to encourage closer working. However, these agreements will necessarily be subject to there being appropriate legal gateways to sharing of information and resources.

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, risks flowing from the policies are assessed and managed, particularly those involving lone workers.

Benefit Fraud Prevention Processes

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!**

Dundee City Council takes a wide variety of measures including the following:

Investigation Team

The council has a Counter Fraud Team in place who work to strict legislative procedures such as:

- Social Security Administration Act 1992 and all subsequent amendments
- 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

Verification Framework

Supporting evidence of income is required prior to benefit applications being processed

Land Registry Checks

Benefit applications are checked against the Land Registry data where appropriate

Fraud Awareness

The Counter Fraud Team carryout Fraud Awareness Presentations to employees and external organisations such as Registered Landlords. Dundee City Council is looking to expand the awareness sessions to reach and incorporate areas that will enhance the message that Benefit Fraud is wrong, unfair and should not be tolerated. If you would like to discuss the Benefit Fraud Team coming to your organisation please contact the Fraud Manager on 01382 431255.

Publicity

A bi-annual programme of publicity on the Council's Counter Fraud Activities is in place involving billboards in the City Centre, posters in public venues in the town, leaflets going out with Revenues mail and an internet referral service. The campaign runs during May and November.

In addition to this the Council also has a quarterly advertising campaign on city buses and an annual arrangement to advertise the hotline and Internet referral process on the carrier bags issued by City Centre Libraries.

The Council also enhances the fraud awareness message with video advertising in the City Centres whenever possible.

DETERRENCE

Repayment

The recovery of fraudulent benefit overpayments will be given priority

The Council will seek repayment of all incurred Housing Benefit or Council Tax Benefit overpayment which has 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, prioritising these cases for urgent action taking all legal steps available.

All benefit overpayments resulting from a benefit fraud offence are recorded and taken into consideration if the perpetrator commits any further benefit offence when determining what further action to take.

The Fraud Section forward details of each individual case to the Overpayments Section to record instigate automatic deductions from on going benefit entitlement or to issue the appropriate invoice for repayment.

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

Debtors who are in receipt of benefit have automatic deductions taken from their account in accordance with legislation and Benefit Fraud Inspectorate best practice, Debtors who are not in receipt of benefit are issued with an initial invoice, which is followed by a reminder notice then a final notice is issued.

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 that 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 and 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
- the debt may be recovered from the landlord's next check

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 fraudsters and as such has a policy in place supporting this policy document – please refer to the Benefit Sanction Policy at the end of this document. The Council endeavours to implement best practice at all times and, where appropriate to joint working, 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.

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

Detention of individuals

Should an individual fail to attend an interview under caution without good cause the Council will 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 to ensure that they are ready to undertake the interview under caution in the interview suite of Tayside Police as soon as possible after the individual has been detained.

Administrative Cautions

An Administrative Caution is deemed appropriate where Fraud has been proven but it is either a first offence and/or the offence is not so serious that the first option should be Administrative Penalty or Prosecution. The criteria for Administrative Cautions 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, or attempted has resulted in a council benefit overpayment ranging between £0 - £1,999.99
- d) the duration of the offence is under 13 weeks
- e) after interviewing the possible offender the Council has made an independent review of the case and found it suitable for sanction action
- f) the offender has admitted the offence
- g) the offender is 18 or over

Administrative Penalties

An Administrative Penalty is deemed appropriate where Fraud has been proven but it is either a second offence or the offence is not so serious that the first option should be Prosecution. The penalty as laid down in legislation is a financial penalty of 30% of any accrued benefit overpayment occurring with effect from 18 December 1997 due to the fraud offence. The criteria for Administrative Penalties 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, or attempted fraud has resulted in a council benefit overpayment 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

A prosecution is deemed appropriate where Fraud has been proven and where the offender may have committed a previous benefit fraud offence and / or the offence is such that it is suitable to prosecute as the first option. The criteria 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 council benefit overpayment of £2,000 and over or the perpetration of the fraud involves such action that involves a level of fraudulent scheme demonstrating increased fraudulent intent
- d) after interviewing the possible offender the Council has made an independent review of the case and found it suitable for sanction action
- e) where, if an Administrative Caution or an Administrative Penalty has been offered on the same case, it has been refused
- f) the offender is over 18

Sanction Guidelines

When a case is investigated and it is then reviewed as being up to prosecution standard, an assessment on the action to be taken is made. All sanction cases must be suitable for prosecution.

In joint working cases the LA will take into consideration the sanction action advocated by the DWP and levy the appropriate sanction as assessed by the LA in their independent review of the situation.

All sanctions levied will be in addition to the repayment of any recoverable part of the overpayment of benefit resulting from the fraudulent activity.

The claimant's circumstances will be taken into consideration when determining the appropriate sanction.

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 the appropriate sanction. Any such case that falls outwith the set criteria will be reported as a variance to the Sanction Policy.

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

Where an offender refuses an Administrative Caution or an Administrative Penalty, the Council will aim to prosecute.

All sanctions 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. All cases being considered for sanction action will be reported to the Fraud Manager for authorisation.

Any cases where a sanction is administered by the Council and it falls out-with the sanction criteria as stated in the policy at the end of this document and guidelines as noted above 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.

Any cases where a variance is authorised shall be documented and reported to the Elected Members in the Fraud Quarterly Report to ensure strict control measures are in place as advocated by the Benefit Fraud Inspectorate.

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

Sanction Targets

The Counter Fraud Section works toward sanction targets which are reviewed annually.

Proceeds of crime

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

- reviewing financial intelligence gathered during investigations
- expanding investigations to include financial investigations where appropriate
- reporting to and working jointly with the police where appropriate on financial investigations
- working jointly with the Department for Work and Pensions Financial Investigation Unit when it is implemented in Scotland

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 Police on financial investigations
- work towards implementing a Service Level Agreement with the Police to encourage further mutually beneficial areas where a legal gateway applies
- receive and provide advice accordingly
- Utilise detention procedures as appropriate

Working with the Department for Work and Pensions (DWP)

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

- complying with our Joint Partnership Agreement to our mutual benefit
- working jointly on cases to bring joint sanction action
- ensuring that referrals are actioned proactively by referring any suitable cases to the DWP where there is no Housing Benefit or Council Tax Benefit involvement or where the volume of cases would lead to unacceptable delay in commencing investigations
- receive and provide advice accordingly
- carryout exchange visits to maintain closer working

DETECTION

The Role of Management

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

The Role of Employees

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

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.

Verification Framework

The Council has implemented Verification Framework procedures in its benefits. With Effect from 01 February 2004 all benefit claimants have been expected to provide supporting evidence of their income prior to benefit being awarded.

This is a measure introduced to secure the gateway to fraud and it is expected that this will realise an increase in benefit accuracy and detection of benefit fraud offences.

Do Not Redirect

The Council takes advantage of the Royal Mail's Do Not Redirect Service whereby certain types of benefit mail are monitored and where an individual has asked the Royal Mail to redirect their mail, the piece of mail for that address is returned to the Council with the redirection details. The matter is then investigated.

Interview Under Caution

During investigations where there are grounds to suspect that a benefit fraud offence has been committed, the perpetrator and any associates who may be part of the offence, where appropriate, will be interviewed under caution using taping procedures.

Data Matching

Matching the Council's benefit records against the Department for Work and Pension's records

National Fraud Initiative

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

Risk Assessments

Identifying and reviewing high-risk areas of benefits

Joint Working

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

Remote Access to DWP Benefit Data

Separate from data matching, procedures are in place to facilitate checking any Department for Work and Pension benefit in payment

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 Sanction Policy at the end of this document.

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.

Code of Conduct for Investigators

Benefit Counter Fraud Officers will adhere to the Code of Conduct that has been produced to cover Benefit Fraud Investigations.

Investigation Procedures

The Council aim to commence an investigation within 10 days of it being through the Referral Quality Assessment procedure which vets the referral for content and risk.

As a matter of best practice the Council aim to provide case progress and outcome information to the referrer. However, the level of information that can be provided to any referrer is subject to Data Protection guidelines therefore the provision of information to external referrers on any case will be restricted as appropriate. The council will not be able to engage in discussions about a case with any external referrer.

Referring a Case

Fraud referrals can be referred to the Council by using:

- the hotline - **0800 085 2289** which is manned during the day and on answer phone at night – referrals can be made anonymously if preferred.
- internet referral form - www.dundee.gov.uk/benefitfraud
- 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 and the reporter is another member of staff – please contact the number above and ask for the Counter Fraud Manager who will progress your information in confidence

Fraud Referrals

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. If there is insufficient information to take the case forward, or 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, the referral, where appropriate, will still be actioned by the Council's benefit assessment section. All referrals are important to the Council.

Referral Actioning Targets

The Council aims to risk assess all referrals within 10 working days of receipt.

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 tape-recorded. Interviews that are held in the Tayside Police Headquarters will be tape-recorded also but in addition DVD recordings will be taken. The individual concerned can obtain a transcript 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 about an individual, where that information or documentation is necessary to the investigation, the council can and will use its legislative powers to obtain it.

Involving Businesses

The Council's Counter Fraud Officers are Authorised Officers under the Social Security Administration Act 1992 (as amended) 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

Council 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 these officers' skills are continually updated.

Quarterly Fraud Section Performance Reports

The Depute Chief Executive (Finance) provides quarterly Fraud Section 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 practice. The content is subject to annual review.



BENEFIT SANCTION POLICY

HOUSING BENEFIT AND COUNCIL TAX BENEFIT

Dundee City Council is committed to preventing, detecting and deterring Benefit Fraud and has adopted the policy of prosecuting any persons who have committed benefit fraud offences against the Authority where appropriate.

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.

The offering of Administrative Cautions or Administrative Penalties will be at the discretion of the Council under the guidelines outlined in the Council's Anti-Fraud and Anti-Corruption Policy and refusal of a caution or a penalty will require the council to report the individual to the Procurator Fiscal.

If a fraudulent overpayment matches the criteria for an Administrative Penalty but the offender is a partner of the claimant and so has no overpayment in their name on which to base the penalty calculation, the Council will include the overpayment in the claimant's benefit award as legislated for in Section 101 (4) of the Housing Benefit (General) Regulations 1987, raising the penalty in the partner's name as the person who has committed an offence.

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 the appropriate sanction.

As per the Court of Appeal (Civil Division) QBCOF 99/1021/4, where a benefit offence has been proven with sufficient evidence to withdraw benefit and there is a Department for Work and Pensions benefit in payment, the Council may action Housing Benefit and / or Council Tax Benefit awards without a Department for Work and Pensions adjudication or end of entitlement notice where that action is thought to be justified and has been authorised by the Benefit Manager.

All cases where there is both a Department for Work and Pensions benefit and a Council Benefit in payment to the claimant during the period of the fraud and where both benefits could be effected by the fraud being perpetrated, the cases will be considered for joint working with the Department for Work and Pensions Fraud Investigation Service.

In joint working cases, if appropriate, combining of benefit overpayments may be considered in accordance with DWP guidance.

In joint working cases, where the Department for Work and Pensions has the lead in the investigation, the Council will under normal circumstances follow their recommendation on what is the appropriate sanction action to impose. However, the council will independently review each case and if a variance to the DWP proposed action is thought to be appropriate then the council will impose the different sanction.

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
- The level of the fraudulent scheme showing increased fraudulent intent
- Any collusive scheme with third parties
- Effect on DWP benefit

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.

Only cases where the circumstances of the sanction decision are outwith any of the above noted criteria will be taken to be variances to the policy and reported to the Elected Members as such. If approved these variances will be incorporated into the Benefit Sanction Policy.

Should an offender decline the offer of an Administrative Caution or an Administrative Penalty, the matter will, where appropriate, 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.

Chief Executive
Dundee City Council