

**REPORT TO: FINANCE COMMITTEE - 13 SEPTEMBER 2004**  
**REPORT ON: COUNTER-FRAUD REPORT - APRIL - JUNE 2004**  
**REPORT BY: DEPUTE CHIEF EXECUTIVE (FINANCE)**  
**REPORT NO: 621-2004**

**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 activity for the period April – June 2004 and to ask that the Elected Members also adopt the revised Anti Fraud and Anti Corruption Policy, Sanction Policy and Code of Conduct for the Benefit Fraud Officers.

**2.0 RECOMMENDATIONS**

It is recommended that the Committee

- 2.1 adopt the quarterly report – Appendix A
- 2.2 adopt the revised Anti Fraud and Anti Corruption Policy – Appendix B
- 2.3 adopt the revised Benefit Sanction Policy – Appendix C
- 2.4 adopt the revised Code of Conduct – Appendix D

**3.0 FINANCIAL IMPLICATIONS**

3.1 None

**4.0 LOCAL AGENDA 21 IMPLICATIONS**

4.1 None

**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.

It is seen as best practice to review policy documents annually.

**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)**

**6 SEPTEMBER 2004**



**COUNTER FRAUD PERFORMANCE REPORT**

**APRIL – JUNE 2004**

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## COUNTER-FRAUD SECTION PERFORMANCE

### PREFACE

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 more Counter-Fraud operational information more freely available to Elected Members and Council Employees.

To address this recommendation, the June 2003 Finance Committee agreed to adopt quarterly reporting tailored to meet the requirements of both the Performance Standards Framework and the Benefit Fraud Inspectorate Report.

In order to assist any reader who is not conversant in Counter-Fraud terminology, a supporting Explanatory information document is available in the members' lounge.

### INTRODUCTION

There has been a change in emphasis in Counter-fraud work over the last few years. Previously our role was identifying fraudulent claims, withdrawing the benefits that claimants were not entitled to and recovering the overpaid benefit. However, the emphasis is now on being proactive to identify the more serious Benefit Fraud Offenders with a view to taking prosecution action against the perpetrators. This report provides a current position statement of the Counter-fraud Section.

### COUNTER-FRAUD FINANCIAL REPORT – 2004/2005 as at 30 June 2004

Subsidy Income	SAFE Income Security Against Fraud & Error Incentive Reward Income)	Administrative Cautions Income	Administrative Penalties Income	Prosecutions Income	Annual Income
£69,435	£8,090	£0	£1,200	£3,000	<b><u>£81,725</u></b>

#### Generated from the following three areas:

1. BENEFIT OVERPAYMENTS - The subsidy level quoted above is derived from taking 40% of the actual fraud overpayments established by the Counter-Fraud Section as shown below

Council Tenants Housing Benefit	Private Tenants Housing Benefits	Council Tax Benefit	Income Support	Job Seeker's Allowance	Other Benefits	Total
£58,585	£69,950	£44,210	£844	£0	£0	£173,589

2. SECURITY AGAINST FRAUD & ERROR INCENTIVE REWARD INCOME

Council Tenants Housing Benefit	Private Tenants Housing Benefits	Council Tax Benefit	Department for Work and Pensions Benefits	Total
£2,840	£3,420	£1,730	£100	£8,090

3. SANCTION INCOME

Administrative Caution Income			Administrative Penalties Income			Successful Prosecutions		
No of cases	Incentive reward per case	Income	No of cases	Incentive reward per case	Income	No of cases	Incentive reward per case	Income
0	£0	£0	1	£1,200	£1,200	*1	£3,000	£3,000
Total	£4,200							

\* The prosecution has been carried forward from the 2003-2004 report as the incentive reward income will be received during 2004-2005

### **Subsidy Income**

The 2004-2005 first quarter subsidy payment generated from fraud amendments to benefit is standing at 70% of the 2003-2004 whole year total for this quarter.

### **SAFE – Security Against Fraud & Error Income**

Benefit fraud cases have identified £8,090 in Weekly Incorrect Benefit. During 2003-2004, the fraud section were generating 3% of the Revenues Weekly Incorrect Benefit income. Unfortunately, there are current difficulties with the Benefit Administration System, I-World that prevent any figures being derived regarding the whole Revenues Division so it is not possible to determine, at this juncture, what percentage of the overall Weekly Incorrect Benefit claim fraud activity has achieved.

This system fault is affecting every Council site using Sx3 and preventing Councils to report as required on the Weekly Incorrect Benefit information so it is expected to be dealt with as a matter of urgency.

### **Administrative Cautions Income**

There have been no Cautions during this quarter.

### **Administrative Penalty Income**

There has been one Penalty this quarter.

### **Prosecution Income**

The prosecution recorded in the 2003-2004 Counter Fraud Report has been input in this 2004-2005 report as the incentive reward income will be received in 2004-2005 and this will also ensure that the 2004-2005 figures are accurate.

Another three prosecution cases have been reported to the Procurator Fiscal.

### **Annual Income & Overall Income**

The Overall Income generated by fraud benefit amendments for the first quarter of 2004-2005 has been £81,725, which is 51% of last year's full year total.

## **RESOURCES**

This first quarter in the financial year has proven to be difficult from an operational point of view with one officer leaving to take up a fraud post in one of our adjoining Councils to be working nearer to home and most of the officers taking their first stint of annual leave.

With only four Fraud Officers, any vacant post has a large impact on the work being undertaken. The initial impact of an officer leaving so early in the quarter is an immediate 25% reduction in productivity but there is a further detrimental effect when that officers 'live' caseload is distributed between the remaining officers. The effect is that there is no capacity to take on new cases as the officer's work to maintain progress on the existing cases.

## **COUNTER-FRAUD POLICY**

The Council's Anti-fraud & Corruption Policy, Sanction Policy and Code of Conduct documents have been reviewed and updated where appropriate and are included along with this quarterly report for Elected Members' approval.

## **PERFORMANCE STANDARDS**

The Self-assessment Performance Standards score is showing that the Counter Fraud Section is performing at 91% of the standards with work ongoing on the items still to be completed. This is an increase from the previous score of 88%.

## **BENEFIT FRAUD INSPECTORATE**

The Benefit Fraud Inspectorate have been provided with the quarterly progress report as at May 2004 which was previously approved by members at the June Finance Committee.

The next report is due to be provided for members in October and will cover the months June to August.

The Benefit Fraud Inspectorate have advised that this reporting will be of assistance to them in their monitoring of performance against their report and have requested that all future reports that are approved by members are sent to them.

## **RECOVERY OF BENEFIT FRAUD OVERPAYMENTS**

At the time of reporting, the recovery position on Fraud Overpayments that were generated within the first quarter of 2004-2005 is that 63% of the cases are either paid in full (18%), are being repaid by automatic deduction from ongoing benefit entitlement (35%) or have arrangements to repay in place (10%).

The remaining cases are going through the various stages of recovery as timeously as possible. However, 7% of these are suspended due to there being recovery of Council Tax Arrears in place (3.5%). In these circumstances the Housing Benefit Overpayment will be recovered once the Council Tax Recovery is completed. There are also cases where the debtor has lodged an appeal (3.5%).

## **COUNTER-FRAUD REFERRALS**

### **Year to date**

Analysis of Fraud Referrals is being undertaken to provide a better understanding of our referral base, documenting where our referrals are coming from and where there may be a need to increase Fraud Awareness to encourage good quality referrals.

As at the year to date, the Counter Fraud Section has received 414 referrals made up of 22 different Fraud Type categories with 5 referrals received from Council (non-revenues) Departments, 4 of which have been received from the Housing Department, 185 referrals received from external sources, with the public referring 96 of these and the balance of 224 originating from within Revenues.

The most prolific fraud type referral at 34% relate to possible Non-Residency situations, where a person is claiming for benefit at a property that they are not residing at.

The second most prolific fraud type referral at 23% is a 'Living Together' referral, where a person is claiming benefit as a single person (with or without children) but they actually have a partner residing with them. Quite often the partner is in full time employment also so there is a failure to declare this income as well as the 'Living Together' aspect.

Due to the need to take action on the more serious cases of Benefit Fraud, the Counter Fraud Section have a Referral Quality Assessment procedure which vets cases in order of priority and our investigations are carried out using this prioritising. The procedure looks at areas such as content of the referral, the possibility of the referral being malicious, whether there has been voluntary disclosure by the claimant, the likely amount of overpaid benefit, delay in actioning the referral and availability of corroborative evidence.

As many cases as possible are investigated and many that are not taken on as full investigations are still looked into by the Council's Accounts Section in order to ensure that, though a case may not be classified as a Benefit Fraud Offence, the benefit is still re-assessed accordingly.

## **Overall Referrals from 01.04.1999 to date**

The overall referral tally is 4207 with 81 being received from Council (non-revenues) Departments, 51 of which have been received from the Housing Department, 1390 referrals received from external sources, with the public referring 678 of these and the balance of 2735 originating from within Revenues.

There is a 'switch around in the referral fraud types when the overall situation is looked at with the most prolific fraud type referral at 27% being 'Living Together' situations and Non-Residency situations showing 21%.

### **Referral Targets**

In response to the Benefit Fraud Inspectorate's recommendation that targets be set to encourage referrals, the Revenues Division referrals are being looked at in more details to determine what targets would be suitable to set and the Senior Team will discuss how to take this forward. It is imperative that whatever is put in place regarding referrals it does not prove detrimental to staff morale and the work being done to achieve performance standards.

Regarding referrals from other Council departments or organisations outwith Revenues the Counter Fraud Section has no control over the level of referrals and so any implementation of targets will necessarily be restricted to the Revenues Division.

## **COUNTER-FRAUD IMPACT ON BENEFIT PROCESSING**

While any areas of possible better practice or benefit processing weaknesses have always been referred onto the benefit managers, no records were maintained. However, since the Benefit Fraud Inspectorate highlighted the importance of maintaining a record of how Counter-Fraud work impacts on benefit processing, the situation has been monitored.

Between April and June 2004 the Counter Fraud Section have raised 5 items, 1 related to the claiming of incentive rewards, 1 about the working arrangements between the DWP and LA and 3 directly related to our processing of benefit. All these issues are being progressed

## **REFERRAL QUALITY ANALYSIS**

Analysing referrals at the point of receipt is one of the most effective measures for any Counter-Fraud Section when it comes to maximising productivity on the more serious cases of benefit fraud.

Out of the referrals received between April and June 2004 there were 47 which were assessed as having the potential to reach a proven fraud and sanction outcome. However, of the 47, 14 have been closed as fraud not proven with the balance still under investigation.

## **MANAGEMENT CHECKS**

These checks continue to be carried out and where appropriate increased to ensure there are checking procedures on all aspects of Counter Fraud work.

## **DATA MATCHING & COUNTER-FRAUD**

While the Revenues Division as a whole receive the Data Matching cases, where the LA and DWP Benefit records are compared and any discrepancies are referred to the LA as possible fraud cases, following procedures put in place by the Counter Fraud Section, only a small number are vetted as suitable for fraud action. From these, the Performance Standard to achieve is investigation commencing within 14 days from receipt of referral. A check on the data matching cases during the first quarter of 2004, April to June, found that the Counter Fraud Section had received 25 cases to investigate with 20 achieving the investigation commencement standard reflecting an 80% success rate for the first quarter.

**FRAUD AWARENESS**

In response to the Benefit Fraud Inspectorate's recommendations meetings with Personnel are being put in place to discuss Fraud Awareness and how it could be expanded to reach all employees.

The matters for discussion are what would be appropriate to include in the next revision of the Employee Handbook, how Fraud Awareness could be expanded to reach all employees at least annually, and how best to ensure that all Council employees are made aware of their responsibilities to report possible benefit fraud offences and how to reinforce the requirement for integrity and honesty as a Council employee.

**COMPLAINT MONITORING**

Counter-fraud work is a difficult area to account for customer satisfaction given that our remit is to establish claimants committing benefit fraud and to ensure that the maximum sanction action appropriate is applied to that individual. However, there is a pre-requisite for Council employees to always treat the public with the same amount of respect and responsibility that they themselves would expect and any complaints that are received are scrutinised for any indication that we are falling short of the high standards expected.

There have been no complaints received in relation to Counter Fraud in the first quarter of 2004.

**APPENDIX B****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.

**1. PREVENTION****1.1 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.

**1.2 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 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 Director of Personnel and Management Services Department and the Director of Support Services.

**1.3 Responsible 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.

#### **1.4 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.

#### **1.5 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.

#### **1.6 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.

#### **1.7 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.

#### **1.8 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

#### **1.9 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:

#### **1.10 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

### **1.11 Verification Framework**

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

### **1.12 Land Registry Checks**

Benefit applications are checked against the Land Registry data where appropriate

### **1.13 Fraud Awareness**

The Counter Fraud Team carryout Fraud Awareness Presentations to employees and external organisations and are looking to expand this work. If you would like to discuss the Benefit Fraud Team coming to your organisation please contact the Fraud Manager on 01382 431255.

### **1.14 Publicity**

A 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. This takes place twice yearly in 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

## **2. DETERRENCE**

### **2.1 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, taking all legal steps to ensure this is completed timeously.

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

### **2.2 Sanction Policy**

The Council is committed to taking action against fraudsters and as such has a policy in place which documents the various sanctions that can be levied. See the Sanction Policy at the end of this document

### **2.3 Administrative Cautions**

Where an individual has committed a benefit fraud offence an Administrative Caution will be administered in cases of fraudulent activity:

- which results in a benefit overpayment of under £400
- the case is suitable to progress to prosecution if the caution is refused by the claimant

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.

All Administrative Cautions accepted will be in addition to the repayment of all the overpaid benefit(s) which resulted from the fraudulent activity.

All Administrative Cautions accepted shall be recorded and will be taken into consideration if the perpetrator commits any further benefit offence when determining what further action to take.

## **2.4 Administrative Penalties**

Where an individual has committed a benefit fraud offence an Administrative Penalty will be administered in cases of fraudulent activity:

- which results in a benefit overpayment of between £400 - £1499
- where the overpayment is under £400 but the circumstances of the case merits a more serious form of deterrent action other than an Administrative Caution
- where the case is suitable to progress to prosecution if the penalty is refused by the claimant

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

All Administrative Penalties accepted will be in addition to the repayment of the overpaid benefit(s) which resulted from the fraudulent activity.

All Administrative Penalties accepted shall be recorded and will be taken into consideration if the perpetrator commits any further benefit offence when determining what further action to take.

## **2.5 Prosecution**

Where an individual has committed a benefit fraud offence a report will be made to the Procurator Fiscal in cases of fraudulent activity:

- which results in a benefit overpayment of £1500 or more
- where the benefit overpayment is under £1500 but the circumstances of the case merits a more serious form of deterrent action other than an Administrative Caution or Administrative Penalty
- where the case is suitable for prosecution

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) which resulted from the fraudulent activity.

All Prosecution cases reported to the Procurator Fiscal shall be recorded and will be taken into consideration if the perpetrator commits any further benefit offence when determining what further action to take.

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.

## **2.6 Sanction Variances**

All sanction cases - Administrative Cautions / Administrative Penalties / Prosecutions - are vetted to ensure that the action being considered complies with the Council's Sanction Policy. All cases being considered for sanction action will be reported to the Fraud Manager for authorisation.

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.

## **2.7 Sanction Targets**

The Council aims to achieve 2 sanctions per month per Investigator with effect from 1 April 2004 with the target to be reviewed annually and for each Investigator to refer at least one joint case per quarter to the Department for Work and Pensions for joint investigation

## **2.8 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

## **2.9 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
- hold Service Level Agreement meetings to encourage further mutually beneficial areas where a legal gateway applies.
- receive and provide advice accordingly

## **2.10 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
- Receive and provide advice accordingly

### **3 DETECTION**

#### **3.1 The Role of Management**

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

#### **3.2 The Role of Employees**

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

#### **3.3 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.

#### **3.4 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.

#### **3.5 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.

#### **3.6 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.

#### **3.7 Data Matching**

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

#### **3.8 National Fraud Initiative**

The Council will be taking part in National Fraud Initiatives as relevant to Scotland

#### **3.9 Risk Assessments**

Identifying and reviewing high risk areas of benefits

#### **3.10 Joint Working**

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

#### **3.11 Remote Access Terminals**

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

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

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

### **3.13 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

### **3.14 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.

### **3.15 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.

### **3.16 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.

### **3.17 Investigation Procedures**

The Council aim to commence an investigation within 5 days of it being through the Referral Quality Assessment procedure which vets the case for content and risk.

As a matter of best practice the Council aims to:

- acknowledge receipt of the referral where the referrer is known
- advise the referrer if the case is to be subject to sanction
- advise the referrer of the outcome of the sanction
- advise the referrer of the outcome of the completed case

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 necessary. The Council will not be able to engage in discussions about a case with any external referrer.

### **3.18 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.

### **3.19 Referral Actioning Targets**

The Council aims to risk assess all referrals within 5 working days

### 3.20 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](http://www.dundee.gov.uk/benefitfraud)
- letter to the Revenues Division, Counter Fraud Section, P O Box 216, Dundee, DD1 3RE
- phone call to (01382) 431252
- **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**

### 3.21 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. 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.

### 3.22 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.

### 3.23 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.

Further training is continually being sourced to ensure that these officers' skills are continually updated.

### 3.24 Quarterly Fraud Section Performance Reports

The Fraud Manager provides quarterly Fraud Section Performance Reports for the Elected Members which, once approved are distributed to the:

- Depute Chief Executive (Finance)
- Director of Housing
- Head of Revenues

- Principal Officers within Revenues
- Fraud Officers

for distribution to Directors and staff as appropriate and in accordance with Service Level Agreements.

**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**



## HOUSING BENEFIT AND COUNCIL TAX BENEFIT SANCTION POLICY

Dundee City Council is committed to preventing, detecting and deterring Benefit Fraud and has adopted the policy of prosecuting any persons who have committed criminal 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 subsequent amendments allowing the imposition of Administrative Cautions and Administrative Penalties as an alternative to prosecution.

The offering of Administrative Cautions or Administrative Penalties are at the discretion of the Council and follow the guidelines contained within the Council's Anti Fraud and Anti Corruption Policy.

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
- Whether criminal intent can be demonstrated
- Fraud history
- Overpayment amount
- Quality of evidence
- Quality of investigation
- The length of time taken in the investigation
- Delay in the investigation
- Any Weakness in the benefit administration process
- Claimant being a DCC Employee
- Would public interest be best served by prosecuting
- Whether the claimant has declined an Administrative Caution or Administrative Penalty
- The level of the fraudulent scheme showing increased fraudulent intent
- Any collusive scheme with third parties
- Resources required to take sanction action

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 considered for reporting to the Procurator Fiscal to take the case forward for proceedings where appropriate.

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.

**APPENDIX D**



**CODE OF CONDUCT FOR INVESTIGATORS**

## **CODE OF CONDUCT FOR INVESTIGATORS**

### **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.

### **Background**

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.

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.

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.

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.

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.

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

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.

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

A breach of the Code of Conduct will be investigated and, where appropriate, dealt with under the Council's disciplinary procedure.

Incapability is not necessarily a breach of this code, and where it exists remedial training will be given.

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.