

DUNDEE CITY COUNCIL

REPORT TO: FINANCE COMMITTEE – 10 JANUARY 2005

REPORT ON: REVENUES POLICY DOCUMENT REVISION

REPORT BY: DEPUTE CHIEF EXECUTIVE (FINANCE)

REPORT NO: 17-2005

1.0 PURPOSE OF REPORT

The purpose of this report is to request approval of the attached revised Benefit Fraud policy documents.

2.0 RECOMMENDATION

That the Council approve the attached revised policy documents. The revised text has been highlighted in bold italics:

- The Anti Fraud and Anti Corruption Policy – APPENDIX A
- The Benefit Sanction Policy – APPENDIX B

3.0 FINANCIAL IMPLICATIONS

None.

4.0 AGENDA 21

None

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

None

6.0 BACKGROUND

The Council's Benefit Fraud policy documents required to be reviewed and revised due to the following factors:

- A policy change within the Department for Work and Pensions (DWP) which has resulted in changes to the overpayment levels at which their fraud sanctions are levied.
- The outcome of this DWP change will be to cause a 'mis-match' between the sanctions levied by the DWP and those levied by the Council in joint working cases which is not advisable.
- The change being a result of best practice within the DWP and the Council being keen to take on board best practice guidance wherever possible.
- Incorporating any other revisions that would normally have been revised at the start of the next financial year.

7.0 CONSULTATION

The Chief Executive and the Depute Chief Executive (Support Services) have been consulted in the preparation of this report.

8.0 BACKGROUND PAPERS

None

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Depute Chief Executive (Finance)

Date: 10 January 2005

APPENDIX A

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 has 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 and to 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.

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, 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 Assistant Chief Executive (Management) and the Depute Chief Executive (Support Services)***.

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, ***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 their 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 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.

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

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 debtors 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 will endeavour to implement best practice and have incorporated the DWP's guidelines on benefit overpayment sanction levels.

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.

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 ranging from £50 to under £2,000***
- ***where the case is suitable for prosecution in the event of the claimant refusing the caution***

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.

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 ranging from £50 to under £2,000***
- ***where the circumstances of the case merits a more serious form of deterrent action other than an Administrative Caution***
- ***where the case is suitable for prosecution in the event of the claimant refusing the penalty***

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.

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 £2,000 or more***
- ***where the benefit overpayment is under £2,000 but the circumstances of the case merits a more serious form of deterrent action other than an Administrative Caution or Administrative Penalty such as where the perpetrator has defrauded the DWP as well as the Council.***
- where the case is suitable for prosecution
- where the claimant has refused an Administrative Caution or and Administrative Penalty

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

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

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.

The benefit overpayment levels at which sanction action becomes appropriate is subject to change. The Council will adopt the same sanction levels as the Department for Work and Pensions in order to facilitate joint working and undertakes to revise its policies timeously.

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.

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

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

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

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 will be taking 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 Terminals

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 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.

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 5 working days

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) 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*

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.

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 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.

Quarterly Fraud Section Performance Reports

The Fraud Manager provides quarterly Fraud Section Performance Reports for the Elected Members which, once approved, are viewable on the Councils internet and the intranet sites.

This policy document is a living document, designed to evolve over time to incorporate new legislation and best 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 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 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 and details are contained within the council's Anti Fraud and Anti Corruption Policy.

Sanctioning benefit overpayment levels are subject to change. In order to facilitate joint working with the DWP the Council will wherever possible adopt the same benefit overpayments sanction levels as the Department for Work and Pensions. Accordingly the Council's Anti Fraud and Anti Corruption Policy will also be updated to reflect any changes as soon as practicable.

All cases will be considered for joint working with the DWP Counter Fraud Investigation Service where there is a DWP and a Council Benefit in payment to the claimant during the period of the fraud and where both benefits are effected by the fraud being perpetrated.

Sanctioning Overpayment Levels

Although all cases will be assessed for sanction action based on the individual circumstances in each case, the overall guidance on sanctioning cases is as follows:

Administrative Caution – ranging from £50 to under £2,000

Administrative Penalty – ranging from £50 to under £2,000 but deemed as more serious than for the caution cases

Prosecution – £2,000 and over or under £2,000 where the circumstances of the case merits a more serious form of deterrent action other than and Administrative Caution or Administrative Penalty

All variances to this guideline will be reported to the Elected Members.

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

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

Chief Executive
Dundee City Council

APPENDIX B



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- Quality of evidence
- Quality of investigation
- The length of time taken in the investigation
- Claimant being a member of staff
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