

REPORT TO: FINANCE COMMITTEE – 11 DECEMBER 2006
REPORT ON: COUNTER-FRAUD REPORT - JULY TO SEPTEMBER 2006
REPORT BY: DEPUTE CHIEF EXECUTIVE (FINANCE)
REPORT NO: 698-2006

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 activity as at 30 September 2006.

2.0 RECOMMENDATIONS

It is recommended that the Committee approve the attached:

- Counter Fraud Performance Report
- Revised Code of Conduct for Revenues Benefit Fraud Investigators (Appendix A)
- Revised paragraph in the Anti Fraud & Anti Corruption Policy as noted below:

Where name and contact details of the referrer are provided with the referral the Council will acknowledge receipt of the referral. However, in order to comply with the Data Protection Act the Council will not be able to provide any feedback information on what action is taken on the referral or the outcome of any investigation as to give information on a third party would be a contravention of the act.

3.0 FINANCIAL IMPLICATIONS

3.1 None

4.0 SUSTAINABILITY 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.

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)

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COUNTER FRAUD PERFORMANCE REPORT

Position Statement as at 30 September 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

(as at 30 September 2006)

INCOME SOURCE		COUNCIL TENANTS HOUSING BENEFIT	PRIVATE TENANTS HOUSING BENEFIT	COUNCIL TAX BENEFIT	TOTALS
* Benefit Overpayments		£	£	£	£
	Classified as Fraud	30,754	31,183	15,188	77,125
	Classified as Claimant Error	13,107	20,015	15,331	48,453
Administrative Penalty Recovery					903
TOTALS		43,861	51,198	30,519	126,481

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

The Department for Work and Pensions have changed the way Councils are funded for counter-fraud activity. Instead of rewarding Councils for each case where benefit is reduced or withdrawn Councils' now receive income to cover fraud work in the administration subsidy grant which has been allocated to Councils based on their total caseload of benefits therefore there is no set breakdown as to the exact amount that has been included for fraud work. The above grid reflects only those other aspects of fraud work income which can be identified.

Comparison information for the period April to September

(comparison information is not available for claimant error cases resulting from counter-fraud activity)

Fraud Overpayments		Administrative Penalties	
£		£	
2006/7	2005/6	2006/7	2005/6
77,125	15,019	903	3,247

3. REDUCTION & CESSATION OF BENEFITS

Whilst this report primarily deals with our investigations that result in fraud proven, there is a secondary tier of benefit action resulting from cases where the fraud has not been proven but the investigation establishes that the claimant failed to report a change in circumstances that results in their benefit award either being reduced or withdrawn over the period of time the investigation centred on.

Comparison information for the period April to September

	April to September 2006-7
Completed & processed investigations	243
Investigations where either a reduction or cessation of benefit transpired	130
Percentage	53%
Financial total	£377,991

This information demonstrates that just over half of the investigations found that the claimants had failed to provide correct information when claiming benefit.

4. PROSECUTIONS (comparison information for the period April to September)

	2006/7	2005/6
Reports submitted to the Procurator Fiscal	3	2
Successful prosecutions	2	1
Unsuccessful prosecutions	0	2
Outcome pending	1	1
New reports being prepared	2	0

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 are six performance measurements for benefit fraud.

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

April to September 2006-7	April to September 2005-6
3.43	3

- No of fraud investigators employed per 1000 caseload

April to September 2006-7	April to September 2005-6
0.23	0.195

- No of fraud investigations per 1000 caseload

April to September 2006-7	April to September 2005-6
1.4	2.42

- No of reported sanctions per 1000 caseload

April to September 2006-7
0.37

- 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.

April to September 2006-7	April to September 2005-6
93%	77.5%

- 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.

April to September 2006-7	April to September 2005-6
48%	39%

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.

April to September 2006-7	April to September 2005-6
1	5

7. JOINT WORKING SANCTIONS

April to September 2006-7	April to September 2005-6
1	7

8. JOINT WORKING SANCTION VARIANCES

April to September 2006-7	April to September 2005-6
0	1

9. RESOURCES

No of Investigating Officers	
2006/7	2005/6
5	4.33

10. RECOVERY OF BENEFIT FRAUD OVERPAYMENTS (comparison information for the period April to September)

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	
%		%		%		%		%	
2006/7	2005/6	2006/7	2005/6	2006/7	2005/6	2006/7	2005/6	2006/7	2005/6
42	31	23.6	33	5	9	3	N/A	73.6	73

(N/A = stats not available)

For cases where the Council finds it cannot recover the overpayment such as instances where the debtor has moved away, deceased cases, and any other situation where the recovery process has been exhausted, a 'write off' procedure is necessary and for this quarter this amounts to 10% of cases. These cases are regularly reviewed and wherever possible the recovery recommences at that point.

There are also instances where certain cases are 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 and for this quarter this amounts to 1% of cases.

The remaining 15.4% 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.

11. COUNTER-FRAUD REFERRALS (comparison information for the period April to September)

Council Non-Revenues		Revenues		External to Council		Totals		Public (included in External to Council count)	
Nos		Nos		Nos		Nos		Nos	
2006/7	2005/6	2006/7	2005/6	2006/7	2005/6	2006/7	2005/6	2006/7	2005/6
10	33	179	132	257	264	446	429	159	161

Reporting for the period April to September of the financial year 2006/7 the Counter Fraud Section has received 429 referrals covering 19 different Fraud Types. 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 44% of referrals followed by allegations of benefit claimants failing to declare earnings which accounts for 22% of our referrals.

12. COUNTER-FRAUD IMPACT ON BENEFIT PROCESSING

Between July and September 2006 there have been no 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 (comparison information for the period April to September)

	2006-2007	2005-2006 Comparison
Percentage success rate on case closures	27%	23%
No of live investigations	122	205

14. COMPLAINT MONITORING (comparison information for the period April to September)

There have been no complaints received in relation to Counter Fraud activities for this financial year to date.

D K Dorward
Depute Chief Executive (Finance)

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CODE OF CONDUCT
FOR
REVENUES BENEFIT FRAUD 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 Accounts and Benefits 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. Provisions

2.1 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

2.2 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

2.3 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

CODE OF CONDUCT FOR INVESTIGATORS

- do anything which may result in a miscarriage of justice

2.4 Disclosure of Interests

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

2.5 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

2.6 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 Accounts and Benefits in cases of doubt or difficulty.

3. **Codes of Practice & Guidance Documents**

The Fraud Officer role covers a range of requirements and where there is a code of practice or guidance document in place the officers must strictly adhere to it.

Each item listed has been included in the manual document folders provided for each officer.

It is the responsibility of the officers to ensure that they are adhering to these and raising any questions with their line manager.

- 3.1 National code of conduct for local government employees in Scotland
- 3.2 Employee handbook
- 3.3 Duties and responsibilities
- 3.4 Sickness absence reporting procedure
- 3.5 Health and safety guidance for visiting officers
- 3.6 Guidance on lone working & violence
- 3.7 Violent and aggressive situations – reporting procedure

CODE OF CONDUCT FOR INVESTIGATORS

- 3.8 General guidelines for the use of computer facilities
- 3.9 E-mail guidelines
- 3.10 Internet guidelines
- 3.11 Grievance procedure
- 3.12 Receipt of gifts, gratuities and hospitality
- 3.13 S.M.A.R.T. Objectives
- 3.14 Authorised Officer Powers guidance
- 3.15 Surveillance Guidance
- 3.16 Surveillance Code of Practice
- 3.17 Visiting Officers equipment check policy
- 3.18 Visiting Officers car breakdown policy
- 3.19 Visiting Officers deviation from route policy

Please be aware that this list is not exhaustive and that all guidance given either by Personnel or Revenues must be adhered to.

4. 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.