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**REVIEW OF ANTI-FRAUD AND CORRUPTION ARRANGEMENTS**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To review the outcomes from the Council's anti-fraud and corruption arrangements and recommend updates to the policy documents as necessary.

**Summary**

2. This report confirms the implementation of improvement actions resulting from a review of anti fraud and corruption arrangements reported to the March 2009 Audit Committee (Minute A40/27 Mar/09).
3. Anti Fraud and Corruption arrangements have been further reviewed with reference to both a recent Audit Commission publication 'Protecting the Public Purse' (September 2009) and the National Fraud Strategy. A self assessment against a checklist included within 'Protecting the Public Purse' to assess governance arrangements has been completed and a positive position has been found (see **Appendix A**).
4. Overall the total number of reported frauds remains low demonstrating the continued general soundness of the Council's internal control environment and existing arrangements.
5. The council's external auditors have also reviewed the Council's arrangements for the National Fraud Initiative (NFI) 2008 and had no concerns to report.
6. The report also covers the work and continued improved results of the Housing Benefits Fraud Team and proposes minor amendments to the Housing Benefit/Council Tax Anti Fraud Policy, Strategy, and the Housing Benefit Sanctions Policy to reflect changes in terminology and provide greater detail of the types of training available to relevant staff.

**Recommendation**

7. It is recommended that the content of the report be noted and that the updated Housing Benefit/Council Tax Anti Fraud Policy, Strategy and Sanctions Policy at **Appendix B, C and D** be approved.

## **Reasons**

8. The recommendation is supported to provide the Audit Committee with evidence to reflect on the Council's governance arrangements

**Paul Wildsmith**  
**Director of Corporate Services**

## **Background Papers**

- (i) Anti Fraud and Corruption Strategy
- (ii) Anti Fraud and Corruption Policy
- (iii) Fraud Response Plan
- (iv) Anti Money Laundering Policy
- (v) 'Protecting the Public Purse – Audit Commission
- (vi) National Fraud Strategy
- (vii) Housing Benefit/Council Tax Anti Fraud Policy, Strategy and Sanctions Policy

Dawn Barron: Extension 2141

S17 Crime and Disorder	Other than the reported frauds there is no crime and disorder impact.
Health and Well Being	There is no specific health and well being impact.
Sustainability	There is no specific sustainability impact.
Diversity	Diversity issues raised in the report are to be further investigated.
Wards Affected	All wards are affected equally.
Groups Affected	All groups are affected equally.
Budget and Policy Framework	This report does not affect the budget or policy framework.
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	There is no specific relevance to the strategy beyond a reflection on the Council's governance arrangements.
Efficiency	There is no specific efficiency impact.

## MAIN REPORT

### Information and Analysis

9. The Council's Anti Fraud and Corruption arrangements are subject to annual review to ensure that they remain appropriate. The last annual review was considered by this Committee in December 2008 (Minute A29/19Dec/08). An update on planned publicity and training developments was reported to the March 2009 Audit Committee (minute A40/27Mar/09). This update included the completion of Fraud Prevention and Detection Scorecards, which resulted in an associated improvement Action Plan, the implementation of which is reported below.
10. In order to keep abreast of topical issues a member of staff from Audit Services has attended an informative workshop on 'Implementing the Red Book II' organised by the CIPFA Better Governance Forum, a seminar on 'Money Laundering organised by Middlesbrough Council and the annual Fraud Forum organised by the CIPFA North East Audit Group. The Head of Corporate Assurance has also attended an event on Money Laundering also organised by the CIPFA North East Audit Group.
11. Additionally a key publication 'Protecting the Public Purse' recently issued by the Audit Commission has been reviewed. A checklist for those responsible for governance accompanying the document was completed to inform this review of anti fraud and corruption arrangements and a positive position was found (see Appendix A).
12. The content of the National Fraud Strategy (March 2009) issued by the National Fraud Authority (NFA) (an executive agency of the Attorney General's Office established in October 2008) has also been reviewed. The NFA has begun initial work with private and public sector bodies to further develop a national counter fraud culture, which the Council is to participate in as necessary. Access has also been obtained to the Council's external auditors PwC secure Fraud Academy website which aims to share good practice, give expert advice on fraud and related matters and promote events.

### Enhancements to Anti Fraud and Corruption Arrangements

13. The enhancements to the arrangements covered in the improvement action plan reported to the March 2009 Audit Committee have been addressed/implemented as follows:
  - (a) A review of professional publications and the internet together with discussions held with a representative from the CIPFA Better Governance Forum and other local authorities disclosed that the establishment of formal fraud performance measures is a relatively new area and this matter will therefore be kept under a review.

- (b) Fraud Risk workshops to develop the Council's fraud risk assessments facilitated by the Council's external auditors PwC were held in April and December 2009 and attended by senior managers from across the Council. The anti fraud session provisionally planned to be facilitated by the council's insurers was not progressed as on reflection it was felt that the proposed content was adequately covered in the PwC workshops.
  - (c) A newsletter 'Fraud Matters' has been produced and circulated to employees to raise fraud awareness.
  - (d) Induction and exit procedures have been refreshed to further strengthen employees' awareness on anti fraud and corruption. The induction presentation has been enhanced with an additional powerpoint slide and the Exit Survey and Interview Procedure is being revised in consultation with the Corporate HR Division.
  - (e) Fraud Hotline multi lingual capacity and the wider cultural issues around the reporting of fraud have been explored with representatives from the voluntary sector and council staff including the Head of Connecting with Communities. In the light of this, initial advice is to be actioned that a standard sentence be translated into seven foreign languages in use in the borough and included in future publicity advising that frauds may be reported in a mother tongue for subsequent translation.
14. Moreover, for schools the Schools Finance Procedural Manual (approved by Joint Consultative Group in July 2009) includes a revised section (2f) drafted by Audit Services on Anti Fraud and Corruption including Money Laundering. This manual is available for all schools to access via the Learning Platform and updates will be co-ordinated routinely by the Children's Services Schools Finance Team.
15. Previous anti fraud and corruption reviews have reported progress with the development and implementation of the Learning Management Software (CLMS) the content of which, including anti fraud and corruption arrangements has been updated in a standardised powerpoint format and linked to the relevant policy. CLMS re-launch is planned for early 2010.

### **Reported Suspected Frauds**

16. The following table shows potential frauds that have been notified by departments to audit Services during 2009/10 in accordance with the requirements of the Council's Financial Procedure Rules, together with a summary of current status/outcomes.

Table 1

Department	No of potential frauds investigated	Results of investigations
Community Services	4	1 case of unauthorised use of council equipment. Employee dismissed and case referred to the police. 1 case of bogus supplier invoices submitted for payment together with theft of council equipment. Employee resigned and case referred to the police. 1 case of misappropriation of leisure income. Case referred to the police. 1 allegation of inappropriate access and removal of property from housing scheme by council staff. Allegation investigated but not upheld.
Corporate Services	2	1 case of misuse of council equipment. Investigation carried out. Misuse not proven but controls were strengthened. 1 case of theft of licensing income. Employee resigned and case now referred to the Crown Court.

17. A total of four whistle blowing cases were also reported using the Council's confidential hotline service. Two related to housing benefits and were referred to the Housing Benefits Fraud Team who confirmed that they were already aware of the information provided and no further action was needed. The other two cases related to matters which it was confirmed were already being dealt with elsewhere within the Council.
18. Overall the total number of frauds and whistle blowing cases has remained the same from the previous year. However the number of frauds has slightly increased and the number of whistle blowing cases slightly decreased. This shift of emphasis and the nature of the frauds investigated may reflect the current economic climate. However, overall the numbers remain low demonstrating the continued general soundness of the Council's internal control environment and existing arrangements. The potential frauds reported were identified by staff vigilance, audit work and through existing controls, and where necessary improvements to systems have been implemented.

### National Fraud Initiative (NFI)

19. NFI 2008 is being finalised with the exception of council tax and single persons discount datasets, which have been sent via a secure website to the Audit Commission in accordance with their timescales with output due February 2010. The following results from NFI 2008 have been reported to the Audit

Commission. Housing benefit overpayments of £20,040.31 (including three frauds one of which due to the stage of the investigation is included in table 2 below) together with £6,757.88 of creditor overpayments, all are being recovered. The Council's external auditors PwC have also risk assessed the adequacy of the authority's arrangements for NFI 2008 at the request of the Audit Commission. On a red, amber, green rating PwC has rated arrangements as 'green' with no concerns to report.

### Housing Benefit Arrangements

20. Performance to date in this financial year has shown an improvement as illustrated in Table 2 below. A total of 57 sanctions have been achieved in the period April to November 2009, including 15 prosecutions resulting in guilty verdicts at Bishop Auckland, Newton Aycliffe, or Darlington Magistrates Court. A further 14 prosecution cases are currently in progress. This is the same number of sanctions as the team achieved last year, but in 2008-09 there were only 11 successful prosecutions during this time period, with four prosecutions still in progress. The table also shows the amount of overpayment, broken down by sanction type, and the total amount of Administrative Penalty accepted during the period.

Table 2

Type of Sanction	No	Overpaid Benefit	Administrative Penalty Accepted
Simple Cautions	4	£4,198.42	
Administrative penalties	38	£26,368.55	£7,232.27
Prosecutions	15 found guilty 14 in progress	£27,932.86 £61,426.95	

21. In November 2009 Darlington Borough Council successfully prosecuted a landlord who continued to receive Housing Benefit after his tenant had left the property. This demonstrates the Council's determination not only to crack down on Housing Benefit Fraud committed by tenants, but also that committed by landlords. One of the 14 prosecutions in progress has a combined Housing and Council Tax Benefit overpayment of £24,169.65, and is a combined prosecution with the Department for Work and Pensions.
22. It is recognised by the Housing Benefit Team that more prominent publicity is required to report the outcome of its activities and to encourage referrals from the public as well as employees and it is hoped that the committee will support this. It is notifying the Communications Unit of any interesting prosecutions, so that they can inform the local press. An article about the outcome of a number of prosecutions was published in the November edition of the tenants newsletter Hot News. The Benefit Fraud team will be submitting further articles for inclusion in editions of the Town Crier in 2010.

23. The Benefit Fraud Newsletter is now more widely distributed to employees within the Housing Benefit, Local Taxation, Customer Service, and Housing Departments.

### **Review of Anti Fraud and Corruption Process and Outcomes**

24. The annual review of anti fraud and corruption arrangements has involved a review of the publication 'Protecting the Public Purse' and completion of an accompanying checklist for those responsible for governance that required a positive or negative answer to confirm whether arrangements are in place. It is pleasing to note that that all answers are positive and current arrangements and the Anti Fraud and Corruption Policy, Strategy and Anti Money Laundering Policy are therefore considered sound.
25. The Housing Benefit Anti Fraud Policy and Strategy, and the Housing Benefit Sanctions Policy have been updated to take into account name changes. A Formal Caution has now been re-named as a Simple Caution in line with the guidance provided in the Home Office Circular 16/2008. All references to The Pension Service have now been changed to The Pensions Disabilities and Carers Service. The Housing Benefit/Council Tax Anti Fraud Strategy gives greater detail of the types of training available to investigators who have completed the basic Professionalism IN Security qualification provided by the DWP.

### **Conclusion**

26. Enhancements to anti fraud and corruption arrangements have continued. No amendments are required to existing documentation apart from minor amendments to the Housing Benefit/Council Tax Anti Fraud Policy, Strategy and Sanctions Policy. Participation in the NFI 2008 is being satisfactorily concluded. There have been continued improved results from the Housing Benefit Fraud Team with increased prosecutions. Overall the number of reported frauds remains low demonstrating the continued general soundness of the Council's internal control environment and existing arrangements. However the Council is not complacent and this position will be kept under review.

### **Outcome of Consultation**

27. There was no formal consultation undertaken in production of this report.



**Checklist for those responsible for governance from ‘Protecting the Public Purse’ Audit Commission publication**

To ensure that the council has sound governance and counter-fraud arrangements that are working as intended.

**Yes:** indicating that the area, factor, or consideration is in place together with supporting sample evidence

**No:** indicating that the area, factor, or consideration is not in place together with a note associated with it that describes the action plan for bringing it to Yes

	<b>General</b>	<b>Yes</b>	<b>No</b>	<b>Sample Evidence</b>	<b>Action</b>	<b>Responsible Officer</b>	<b>Time Scale</b>
1.	Have we committed ourselves to zero tolerance against fraud?	✓		Defined in Anti Fraud and Corruption Strategy Anti Fraud and Corruption Policy Fraud Response Plan Money Laundering Policy			
2	Do we have appropriate strategies, policies and plans?	✓		See 1 above			
3	Do we have dedicated counter-fraud resources?	✓		See 4 below			
4	Do the resources cover all of the activities of our organisation?	✓		Housing Benefit fraud investigation team. Counter fraud included in work of Audit Services			
5	Do we receive regular reports on fraud risks, plans and outcomes?	✓		Audit Ctte receives regular reports including annual report on review of anti fraud & corruption arrangements			

	<b>General</b>	<b>Yes</b>	<b>No</b>	<b>Sample Evidence</b>	<b>Action</b>	<b>Responsible Officer</b>	
6	Have we assessed our management of counter-fraud resources against good practice?	✓		Various professional publications e.g. Red Book II, 'Managing the risk of Business Fraud: A Practical guide', 'Protecting the Public Purse', National Fraud Strategy			
7	Do we raise awareness of fraud risks: New staff (including agency)? Existing staff? Members?	✓		Induction process Various articles/Fraud newsletter/CLMS Team briefings			
8	Do we join in appropriately with national, regional and local networks and partnerships to ensure we are up to date with current fraud risks and issues?	✓		North East Fraud Forum/National Anti Fraud Network/Better Governance Forum/CIPFA regional networks			
9	Do we have working arrangements with relevant organisations to ensure effective sharing of knowledge and data about fraud?	✓		See 8 above TisOnline PwC Fraud Academy website			
10	Do we identify areas where internal controls may not be performing as intended?	✓		Internal Audit work External Audit Inspectorate reports			
11	Do we maximise the benefit of our participation in the Audit Commission NFI and receive reports on outcomes?	✓		Reports to Audit Ctte External Audit positive (green) assessment of NFI 2008			

	<b>Fighting fraud in a recession</b>	<b>Yes</b>	<b>No</b>	<b>Sample Evidence</b>	<b>Action</b>	<b>Responsible Officer</b>	<b>Time Scale</b>
12	Have we reassessed our fraud risks because of the recession?	✓		Risk Register amended Risk Workshops			
13	Have we amended our counter-fraud action plan as a result?	✓		Increased audit work carried out on risk areas i.e. expenses, income etc. Housing Benefit visiting regime modified to include national minimum wage, local housing allowance (on risk basis), relook at job seeker allowance			
14	Have we reallocated staffing as a result?	✓		Housing Benefit Fraud team resources reviewed and considered adequate. Audit Services resources kept under review in the light of the number of cases to investigate.			
	<b>Some current risks and issues</b>	<b>Yes</b>	<b>No</b>	<b>Sample Evidence</b>	<b>Action</b>	<b>Responsible Officer</b>	<b>Time Scale</b>
15	Do we take effective action to ensure that social housing is allocated only to those in need?	✓		Choice Based Letting procedure in place i.e. standard application & allocation criteria and priority banding, ID, address and right to work checks etc, double check on information at point of offer, monitoring by homeless team,			

	<b>Some current risks and issues</b>	<b>Yes</b>		<b>No</b>	<b>Sample Evidence</b>	<b>Action</b>	<b>Responsible Officer</b>
16	Do we take effective action to ensure that social housing is occupied by those to whom it is allocated?	Partial		Addressed via NFI no issues identified Reactive measures in place. Visit during first month of tenancy Currently exploring establishing a tenancy audit regime as part of good landlord responsibilities		Housing Estates Manager Housing Team Leaders	April 2010
17	Are we satisfied that payment controls are working as intended?	✓		Via internal audit work carried out by Darlington & Stockton External Audit			
18	Have we reviewed our contract letting procedures against good practice guidance issued by the Office of Fair Trading to reduce the risk of illegal practices such as cartels?	✓		Good practice guidance used to inform review of contract procedure rules and updates of associated documents			
	<b>Fighting fraud in a recession</b>	<b>Yes</b>	<b>No</b>	<b>Sample Evidence</b>	<b>Action</b>	<b>Responsible Officer</b>	
19	Are we satisfied that our recruitment procedures are: <ul style="list-style-type: none"> <li>• Preventing employment of people working under false identities?</li> <li>• Validating employment references effectively?</li> <li>• Ensuring applicants are eligible to work in the UK?</li> </ul>	✓		Via internal audit work carried out by Stockton & Darlington Safe recruitment procedures			

	<b>Fighting fraud in a recession</b>	<b>Yes</b>	<b>No</b>	<b>Sample Evidence</b>	<b>Action</b>	<b>Responsible Officer</b>
20	Where we are moving to direct payments (for example, social care) have we introduced suitable and proportionate control arrangements in line with recommended practice?	Partial	Work is ongoing		Head of Business Transformation Project Officer – Adult Services	In accordance with Adults personalisation of social care agenda & timescales
21	Are we effectively controlling the discounts and allowances we give tax payers?	✓	Discounts and exemptions are subject to a programme of rolling reviews to ensure entitlements are not exceeded Single persons reviews have also been subject to an external targeted review across the authority and also form part of the NFI			
22	Are we satisfied that we are doing all that we can to tackle housing and council tax benefit fraud?	✓	Participation in data matching e.g. NFI HBMS Dedicated Housing Benefit Fraud team in place Follow up of referrals made by the public Visiting regime in place			
23	Do we have a reporting mechanism that encourages our staff to raise their concerns of money laundering?	✓	Money Laundering Policy in place. Reporting form & guidance on the intranet, team briefings, newsletter			

## **Darlington Borough Council Housing Benefit/Council Tax Benefit Anti-Fraud Policy**

- Statement of Intention

Darlington Borough Council (the Council) is committed to the delivery of Housing Benefit and Council Tax Benefit to its citizens. Benefits are for those who are most vulnerable in society and should be assessed and paid at least within Government Guidelines.

The Council is committed to ensuring that claimants get the benefits to which they are entitled and, in line with our Anti-Poverty Strategy, will ensure that benefits are taken-up by those people who need to access the service.

However, the Council understands that some people will attempt to obtain benefits to which they are not entitled. Sometimes this is done with planning and intention. Where intention and planning is involved, then the Council will consider the circumstances of the individual and, where appropriate, will consider prosecution using relevant legislation such as s.111A or s.112A of the Social Security Administration Act 1992.

- Action on Overpayment of Benefit

Darlington Borough Council will encourage all customers to notify any changes in their circumstances. The Council will make all new applicants for Housing and Council Tax Benefit aware of this duty, and of the different ways in which they can contact the Council to do so. When customers are visited by the Benefit Visiting Officers, they will also be reminded of this duty. Darlington Borough Council may undertake publicity campaigns throughout the year, to ensure that all customers remain aware that they should report any changes in their circumstances to the Council.

In some instances, benefits or extra benefits will still be obtained from the Council where there is no entitlement due to a change in circumstances. This may have been done without planning, but with knowledge that the changes in personal circumstances may effect benefit entitlement and that the change should have been reported to the Council. Under these circumstances, the Council will consider the particulars of the individual case and, where the customer could reasonably be expected to know that the failure to report the change in circumstance would cause a fraudulent overpayment of benefit, the Council will consider if a sanction is appropriate e.g. simple caution, administrative penalty or prosecution.

Where appropriate, the Council will consider applying an overpayment penalty (called an administrative penalty which is set at 30% of the total gross overpayment) or issuing a local authority caution (called a simple caution).

In some circumstances, it may not be in the public interest to take action against a person who has made either a false claim, or has failed to report a change in circumstances which has resulted in them obtaining benefit to which they were not entitled. Under these circumstances, the Council will seek to recover any overpaid Benefit. It would not be the Council's intention to place the customer into financial hardship, but failure to come to a reasonable arrangement for repayment may result in taking civil recovery action including taking recovery action through the courts.

- Action on Overpayment of Benefit to Landlords

Payments of benefit may be made directly to Landlords on behalf of the customer. In some cases, Landlords falsify claims or assist customers to falsify claims for benefits. The Council will sanction landlords who commit an offence under s.111A (1C 1D 1E 1F) or s112 (1C 1D 1E) of the Social Security Administration Act 1992 as amended.

Landlords who are receiving benefit directly are also obliged to report any changes in their tenant's circumstances. The Social Security Administration Act 1992 states that where the landlord has notified the authority or the Department for Work and Pensions (DWP) **in writing** that they suspect there has been an overpayment, and it appears to the Council that:

- There are grounds for instituting proceedings against any person for an offence under s111A or s112 (1) of the Administration Act (dishonest or false representations for obtaining benefit)
- There has been a deliberate failure to report a relevant change of circumstances and the overpayment occurred as a result of that deliberate failure

The Council is satisfied that the landlord has not:

- Colluded with the claimant so as to cause the overpayment
- Acted, or neglected to act, in such a way so as to contribute to the period, or the amount of the overpayment.

In these circumstances only, the Council cannot recover any Housing Benefit overpayments from the landlord where the rent was paid directly to them.

When a Landlord fails to notify the Council of a change of circumstances, they may be paid more benefit for their tenants than they are entitled to. The Council makes Landlords aware of their duty to report known changes and failure to do so is an offence under s.112 (1C 1D 1E) or S.111A (1C1D 1E1F) of the Social Security Administration Act 1992. Where an offence has been committed, the Council will consider an appropriate sanction (either an administrative penalty or prosecution) and will recover any overpaid benefit. This could include recovering the overpayment either directly from ongoing payments of benefit to the Landlord

or through civil recovery through the courts. The Council will also consider whether the landlord should receive any future payments of Housing Benefit.

The Council will prosecute any persons involved in planned-fraud involving more than one person.

- Obtaining information

The Council will use all the powers granted to the Council by the Secretary of State for Social Security under the Social Security Administration Act 1992. The Council will use the National Anti Fraud Network and the Operational Intelligence Unit to gain information under Section 109B (2A) Social Security Administration Act 1992 as amended in 2001.

- Working in Partnership with Other Organisations

Where necessary, the Council will work in co-operation with other organisations such as the Police, DWP, UK Border Agency, Pension Disability and Carers Service, Her Majesty's Revenue and Customs in order to combat organised benefit fraud.

The Council will also sign the Service level agreement between themselves and the Fraud Investigation Service of the DWP. The Council will actively monitor this service level agreement, meeting every quarter with the local DWP Fraud Investigation Service to discuss any issues.

The Council will also actively look for opportunities to work together with colleagues from the DWP to investigate allegations of fraud. The Council will notify the DWP using the appropriate forms of any potential joint working cases. The Council will also invite the DWP to any Interviews Under Caution where a DWP benefit is also in payment. The Council will also undertake to respond within 10 working days to any invitations for joint Interviews Under Caution sent by the DWP.

- The Data Protection Act

The Council will be correctly registered under purpose 058 of the Data Protection Act 1998. Where required, the Council will use exemption 29(1), in order to protect those organisations that may have information to supply to the Council in its investigation of fraud



- Human Rights Act

The Council will ensure all those being investigated will have their civil liberties observed in accordance with the Human Rights Act 1998, Regulation of Investigatory Procedures Act 2000, and the Police and Criminal Evidence Act 1984 Code of Practice.

- Duties and Considerations of Benefit Fraud Officers

When investigating fraud, Council Benefit Fraud Investigators, and Benefit Visiting Officers will work within the guidelines of the Police and Criminal Evidence Act and apply the Council's policies on equal opportunities and customer care. The Council's officers will at all times apply appropriate procedures to maintain confidentiality.

It is the duty of the fraud investigators to investigate all referrals of suspected or alleged benefit fraud and to establish the facts of each case.

- Duties and Considerations of all Council Employees

The Council will require all Council officers involved in the administration of benefits to report to the Housing Benefits and Supporting People Manager details of any property that they are renting to tenants and any claims of benefit to which they have some connection. This may be a claim of benefit where the officer is the landlord, the customer, a partner, dependent or non-dependant on the application. If a benefits officer has knowledge of a claim where he/she is a close family member, as described by schedule 2 of the Housing Benefit and Council Tax Benefit General Regulations, then the officer must report this case to the Housing Benefits and Supporting People Manager.

Interest in a benefit claim must be registered in the Register of Interests in accordance with agreed procedures.

Any Council officer found to be involved in an offence under the Social Security Administration Act 1992, the Fraud Act 2006, or any other criminal offence, involving claims of benefit either at this Council, any other Council, the Department for Work and Pensions, the Pensions Agency or Her Majesty's Revenue and Customs will be disciplined under the Council's Disciplinary Procedures, in addition to any prosecution proceedings that may occur.

Where any Council officer investigating fraud abuses their powers, an investigation will take place with a view to taking disciplinary action.

- Duties and Considerations of Elected Members

Interest in a benefit claim must be registered in the Register of Interests in accordance with agreed procedures.

- Whistleblowing Policy

The Council has set out its policy on whistle blowing in "The Whistleblowers Charter".

- Benefit Administration and Counter-Fraud Action

The Council believes that it is important to discourage and prevent fraud from taking place in the first instance. The Council will implement vigorous procedures for the verification of claims in accordance with Government guidelines. Generally, only original documents can be accepted as evidence of a customer's income, capital and where appropriate, rent. When a customer applies for Housing and/or Council Tax benefit for the first time, and they are not entitled to Income Support, Job Seekers Allowance, Employment and Support Allowance (income related) or Pension Credit they must provide proof of their and any partner's identity and national insurance number, again providing original documents. These documents will be scrutinised by trained staff, to ensure that they are not forged or counterfeit. Where a document is found to be suspicious, it will be passed to a supervisor, the Benefit Supervisor, or a member of the Benefit Enquiry Unit, for further investigation.

Where a customer has applied for Housing Benefit through the Department for Work and Pensions (DWP) Customer Management System, or the Pensions Disability Carers Service they will undertake all checks on identity, National Insurance Number, and income, capital etc. They will forward any rent proof they receive. If there is any doubt regarding a document or series of documents, then the Council may liaise with the DWP to resolve this issue.

Every month, the Council will send a sample of the data held on customers to the Housing Benefit Matching Service. They analyse the data, and will provide the Council with a list of customers whose claims show a discrepancy between the data held by the Council and that held by other organisations such as Her Majesty's Revenue and Customs. The Council will conduct its own risk analysis of its caseload, and will select claims to be reviewed either by visiting the customer or by any other suitable means. The Benefit Visiting Officers may use a review form to collect the minimum standard of data set out in the DWP Security Guidance Manual.

However, although claims for benefit will be subject to close scrutiny, the Council is committed to delivering benefit within the key lines of enquiry. Assistance will be given by the Council to benefit customers in completing and applying for benefit and to maximise take-up.

The Council's application form for Housing Benefit/Council Tax Benefit will conform to the DWP model claim form and will include questions and instructions in plain language giving the customer clear directions to what is required of them. The form will carry warnings and information; so that the claimants will understand the risks to them should they misinform the Council of their personal circumstances. The form will contain all the information the customer will require to understand their rights.

The Council is committed to controls designed to prevent fraud being perpetrated by its own staff. Therefore, all staff employed in Benefits and Investigation Units will be rigorously vetted at the time of application. If misrepresentation is found to have occurred on the application form or interview, disciplinary procedures will be considered.

- In Summary

- The Council is committed to ensuring that people should get all the benefits to which they are entitled.
- The Council will encourage people to report any changes in their circumstances and ensure that this is well publicised.
- The Council will act against those people who systematically obtain benefits to which they are not entitled.
- Any benefit obtained to which a claimant is not entitled will be repaid in full to the Council. However, the Council will take care not to place anyone into financial hardship.
- The Council will respect the civil liberties of all persons involved in an investigation of alleged fraud.

This policy follows principle seven of the Government's Green Paper on welfare reform in-so-far as it implements the three-pronged campaign against fraud: improved detection; implementation of a more effective deterrence and better prevention.

# Darlington Borough Council: Housing Benefit/Council Tax Benefit Anti-Fraud Strategy

## Introduction

Darlington Borough Council's Housing and Council Tax Benefit Anti-Fraud Policy represents a commitment by the Council to implement a robust anti-fraud strategy in order to protect public funds and to ensure that benefits are delivered to those who have a true entitlement to them. It operates within Darlington Borough Council's Anti-fraud and Corruption Policy framework.

This strategy outlines the mechanisms whereby the Council will deliver the above commitment to its citizens.

## Resources

The Benefit Enquiry Unit comprises of the Benefit Supervisor, 3 Benefits Investigators and 1 Benefit Clerk. They will sift all allegations of Housing and or Council Tax Benefit Fraud made to the Council against set criteria. The Benefit Supervisor will then look at these allegations, and bearing in mind the result of the sifting process, will determine which allegations are suitable to be passed to the Benefit Investigators to investigate.

The Director of Corporate Services will write to the Secretary of State requesting the appointment of named Housing Benefit Authorised Benefits Officers. These Authorised Benefits Officers will have the power of entry and inspection under Section 110A of the Social Security Administration Act 1992. Letters of appointment will last for no more than one year, carry the full name of the Authorised Benefits Officer, the start date of the appointment, reference to section 110A of the Social Security Act 1992, the Council's logo, the image of the Authorised Benefits Officer and the authorising signature of the Director of Corporate Services and the Authorised Officer.

The Authorised Benefits Officers may use the letters of appointment to inspect business premises and to interview persons who may hold information that has relevance to a claim of Housing Benefit or Council Tax Benefit, and certain specified National Benefits administered by the DWP. Any abuse of these powers will result in the officer being subject to disciplinary action by the Council.

### Targets

Targets will be set for the Benefits Investigators. These will be set annually in the Benefit Service plan after consultation with the Staff. They will reflect the National Indicators, the Service Level Agreement between the Department for Work and Pensions (DWP) Fraud Investigation Service and the Council and the Key Lines of Enquiry. The Benefit Supervisor using a series of system reports and spreadsheets, as well as qualitative monitoring through checking individual cases will monitor these objectives to audit standards. The outcomes will be reported quarterly to the Benefit Manager.

### Verification of Housing Benefit/Council Tax Benefit claims

Benefits Officers and Visiting and Benefit Investigation Staff or other council employees receive training in the guidance the Department for Work and Pensions has produced for verifying information supplied on the application form for Housing/Council Tax Benefit. All supporting documentation provided at the Benefit Office will be scanned and authenticated on the Data Image Processing System or photocopied and authenticated. Only original documents or documents which are considered to be from a secure source such as information received from the Customer Information System will be accepted as supporting evidence for a claim. These will be rigorously checked to ensure that they are not forgeries or counterfeits. Where it is suspected that a document is not an original or has been tampered with, then the employee will refer the document to either a supervisor or the Benefit Enquiry Unit for further investigation.

Care will be taken to verify information on the form and documentation. Whenever necessary, this will include contacting third parties under section 109B & 109C of the Social Security Administration Act 1992 or interviewing them in line with the Police and Criminal Evidence Act 1984. Obtaining evidence will be done in compliance with the Data Protection Act 1998.

Claims for Housing Benefit/Council Tax Benefit may be reviewed by a programme of visits or by other appropriate methods.

### Data Protection Registration

The Council will maintain its registration for purpose 058 under the Data Protection Act 1998.

## Visiting of Customers

The Council will maintain a visiting regime to confirm residency and cross-reference the information on the application form. The cases selected for a visit or review will be a result of a risk analysis. This analysis will include the following factors:-

- The type of benefit the customer receives
- The type of income the customer receives
- The length of time since the customer's claim was last reviewed
- The customer has in the past been investigated for fraud, which was proven.
- The customer has previously failed to report a change in their circumstances on time.
- Known dates that the customer's income is likely to change, or increase.
- The age of dependant children in the household
- Health and social factors

In addition Benefit Visiting Officers may carry out some un-notified visits based on a further analysis of risk, during the year, in order to confirm that the details of the claim have not altered in any way. This risk analysis will additionally take into account:-

- possibility that the customer is not resident,
- possibility that the customer has an undeclared member of the household ,
- possibility that another member of the household is not resident,
- age of customer,
- type of tenancy,
- any other information known about the customer or a member of their household.

## **The Application Form**

A customer in Darlington can apply for Housing Benefit either by completing a Darlington Borough Council application form, or by completing a form when they make a claim for benefit with the DWP or declare they are starting work, or by telephone via the DWP's Customer Management Service or the Pension's Disability Carers Service. The DWP will then forward to the Council a document called a "LA Input document", an IOW4 or an HCTB1, and the Pension Service will forward their own Housing and Council Tax Benefit forms which will contain all the information necessary to assess a claim for Housing/Council Tax Benefit. They will also gather the necessary supporting evidence, and will undertake to verify its authenticity to the standards established by the DWP. Where there is a query with the supporting evidence, the Council may seek clarification from the DWP.

The Darlington Borough Council Housing Benefit/Council Tax Benefit application form will adopt many features of the DWP's standard housing benefit/council tax benefit claim form.

It will be reviewed annually to ensure that it asks plain language questions that help the claimant in obtaining benefit and will include a fair processing statement. At the same time, the form will make clear to the claimant that misinformation will not be acceptable and could result in the claimant being prosecuted. Mandatory questions will need to be filled in by the claimant or their agent. Failure to respond to a mandatory question may result in the form being returned to the claimant.

The Council will also use a review application form, a shortened form for Hostel Dwellers, a shortened form for the Homeless and a shortened form for people who have recently moved address within the Darlington Borough Council area that will at least meet the standard set by the model review application form recommended by the DWP.

## **Change of Circumstances**

The Council will make every customer aware of their duty to contact it, or when appropriate to contact the DWP's In and Out of Work Team whenever they have a change in their circumstances. The Council will do this by informing every new applicant who visits the Customer Services office that they must notify it of any changes, and making them aware of the different ways they can do this. The Council may also undertake publicity campaigns throughout the year to raise all customers' awareness of how they can report a change of circumstances, and when they should do this.

The Council may contact people who apply for Housing and/or Council Tax Benefit through the DWP Customer Management Service or Pension's Disability Carers Service shortly after their claim has been assessed, to inform them of the different ways they can contact the council to notify any future changes in their circumstances.

The Council will use a risk analysis to identify people who are likely to have a change in their circumstances, and contact them either by letter, by visit or by any other appropriate method. The Council will use this contact to gather information about the predicted change in circumstances, and to remind the customer of their duty to notify any future changes promptly.

### Establishment of an Anti-Fraud Hot-Line

The Council will maintain and advertise a hot-line to enable concerned members of the public to report those concerns. The hot-line will be private and confidential. The Benefits Section will sift all calls applying risk analysis criterion. These are a set of criterion such as the level of detail about the allegation and the person concerned, an evaluation of the intelligence, the financial status of the person concerned, the age of the person and their household makeup, when the claim was last reviewed, and if any previous allegations have been received. These are all given a numerical value, and the allegation is given a total numerical value. The case along with the outcome of the Risk Analysis will be passed to the Benefit Supervisor to decide which are accepted for investigation.

The hot-line will be advertised in all Council publicity as well as in the local press. The Benefit Fraud information page on Darlington Borough Council's website, will provide a link to the Audit page for reporting corruption within the council. Any information that relates to an allegation of internal fraud will be passed to the Audit department in confidence. The Council will also subscribe to the National Anti Fraud hot-line (called the Shared Fraud Hotline) and will publicise this service in all its publications. The public can also e-mail any referrals to the Benefit Enquiry Unit via the HB enquiries e-mail address, and these will be risk scored and treated in the same manner as any referral receive via the Anti-Fraud hot-line.

### Publicity

Publicity will follow a twin-track approach; inviting those who feel that they have an entitlement to benefit to apply and discouraging those who might seek to defraud the system. All publicity will seek to inform the public that the Council has an investigation team whose purpose is to investigate fraud and potential fraud and to take legal action against those defrauding the Council.

Methods of publicity for the Council's anti-fraud action will include newspaper adverts and articles in the Council produced publications. Information on all potential prosecutions will be sent to the Communications Unit so that they can make the press aware.

A quarterly newsletter will be distributed to all Housing Benefit, Housing, Customer Services and Local Taxation staff to read, giving a brief outline of all the cases that have been prosecuted, along with the outcome of the case. It will encourage staff to refer any cases where they suspect there is an irregularity for investigation and identifying any referrals that have been particularly successful.



### Fraudulent Actions by Landlords

Whilst the Council recognises that the majority of the Landlords in the district are honest and fair, it also recognises that a few Landlords do defraud, or attempt to defraud, the Housing Benefit system. Therefore, the Council will expect Fraud Authorised Officers to use their powers under the Housing Benefit (Supply of Information from Landlords) Regulations 1997 in addition to powers under the Social Security Administration Act 1992 (amended) to obtain information from Landlords. These powers will be used reasonably and in compliance with the regulations. Landlords will be expected to comply with requests for information or the Council will apply for them to be fined by the Courts.

In cases where the Landlord has been found to have failed to notify the Council of their tenant's change of circumstances and continued to accept Housing Benefit payments that they are aware they are not entitled to, the Council will interview these landlords under caution in accordance with the Police and Criminal Evidence Act. Following the interview, the Council may consider taking further action such as offering a sanction, or prosecuting for the offence.

### Whistleblowing

The Council will investigate all allegations of abuse made under The Whistleblowers Charter.

### Register of Interests

The Council will undertake annual checks on all properties registered in The Register of Interest to ensure that no benefit payment has been made to these properties without the knowledge of the Housing Benefit and Supporting People Manager or Director of Corporate Services.

### Data Matching Exercises

Data Matching is a method of checking details held in 2 or more separate databases, and looking for discrepancies between the data held. For example, the Council may hold a record that shows a person is claiming Housing Benefit based on an income of Job Seekers Allowance (income based), while the DWP database may hold a record that shows this person no longer claims as he or she has told them that they have started full time work. The law allows data matching when it is to detect or prevent crime.

The Council uses the Department for Work and Pension's Housing Benefit Matching Service, which checks claims of Housing and Council Tax Benefit for potential incorrectness against records held by other local authorities, Her Majesty's Revenue and Customs, Royal Mail data, Pension's Disability and Carers Service, DWP benefits etc on a monthly basis.

The Council uses the National Fraud Initiative administered by District Audit, which allows comparison of Housing Benefit data against other data sources.

The Council may also run data matching exercises against its own databases. This will include databases holding information concerning Council employees and Council Members. The Council will notify all employees beforehand that a data match is about to be conducted across their databases, in accordance with the principals of the Data Protection Act.

At all times, the Council will observe the advice and guidance of the Data Protection Registrar in the area of Data Matching.

### Working in Partnership

The Council is keen to undertake specific fraud drives by working with:

- the Police;
- the Department for Work and Pensions;
- the Pensions Disability Carers Service;
- Her Majesty's Revenue and Customs;
- other Councils;
- other Council Departments.
- other law enforcement agencies

Whilst the Council is committed to the exchange of information with other organisations, either on a case basis or through the mechanism of data-matching, the Council will observe the law on Data Protection, Human Rights and the rules of confidentiality at all times.

### **Specific Targeted Fraud Campaigns**

The Council may undertake fraud campaigns each year, following a risk analysis. This will be done either in partnership with other organisations or alone. All campaigns will be designed with due regard to the requirements of the Council's Equal Opportunity Policy, Data Protection Act 1998 and the Human Rights Act 1998.

### The Use of Case Management Systems

The Council's Benefit Enquiry Unit will use a computerised Fraud System, which will interface with the Housing Benefit Computer System. This will assist officers by aiding the proper management, monitoring and recording of relevant claims.

The Case Management System will also assist officers to adhere to the Codes of Practice outlined in the Police and Criminal Evidence Act 1984 and the Social Security Fraud Act 2001, and the Criminal Procedure and Investigations Act 1996.

## Police and Criminal Evidence Act Codes of Practice

In undertaking an investigation the Council will observe the Police and Criminal Evidence Act Codes of Practice, and the Criminal Procedure and Investigations Act Codes of Practice.

## Code of Conduct for Obtaining Information

The council will issue a flyer to third parties when using their powers as Authorised Officers to obtain information. This will be based on the model publications issued by the DWP. Full codes of conduct for obtaining information will be available on request.

## Intelligence

The Council will subscribe to the National Anti-Fraud Network and use the Operational Intelligence Unit in the Department for Work and Pensions in order to ensure the proper exchange of intelligence concerning possible and probable fraud activity. All sanctions and prosecutions will also be recorded with the DWP Fraud Investigation Service.

The Council will subscribe to publications about fraud and benefits in order to maintain current knowledge of fraud issues.

The council will enter into a Service Level Agreement with the Department for Work and Pensions Fraud Investigation Service. All antecedents will be checked with the DWP Fraud Investigation Service.

The Council will subscribe to appropriate organisations such as DIG (Durham Investigators Group), LAIOG (Local Authority Investigation Officers Group) (Northern), LAIOG (Local Authority Investigation Officers Group), and JOB (Joint Operational Board).

## Training

The Council will expect its investigators to be fully trained and to maintain this training. Wherever possible, it is desirable for investigators to hold suitable qualifications such as PINS (Professionalism IN Security) or to gain this qualification as soon as practicable. The Council will also encourage the investigators to take qualifications such as the Chartered Institute of Public Finance and Accountancy Investigative Practice, the Bond Solon Advanced Professional Certificate in Investigative Practice, and the BSc (Hons) Counter Fraud and Criminal Justice Studies courses leading either to the full degree or to a Certificate or Diploma of Higher Education in this subject.

The Council will also provide fraud awareness training for all new employees to the Benefits team. This will include a short period of time spent with a Fraud Investigator. The Council will provide procedures for all staff to help them to identify and refer suspicions of fraud to the Benefit Enquiry Unit. The Benefit Supervisor will provide annual refresher training to all members of the Benefits team, the Housing team, Customer Services team and Local Taxation departments.

The Council will provide training in the standards of verification required to all new employees of the Benefits Section and the Customer Services Section. It will also undertake to provide this training to all new employees of the Housing Division that have been identified by them as someone who will receive supporting evidence for Housing/Council Tax Benefit applications. This will include a session on original documents and checking their authenticity, appropriate use of the UV scanner and what steps to take if they suspect a document is either not an original or has been tampered with. It will also include a session on identity fraud. The Benefit Supervisor will undertake annual refresher training for all Customer Services and Benefits staff on Original Documents training and Identity Fraud.

## Sanctions Policy

### Introduction

Darlington Borough Council is committed to the delivery of Housing Benefit and Council Tax Benefit to its residents. However the Council understands that some people will attempt to obtain benefit to which they are not entitled. The Council believes that it is important to discourage and prevent fraud in the first instance, and has implemented the guidance supplied by the Department for Work and Pensions (DWP) Security Guidance Manual. The Anti-fraud strategy and Policy details how this will be implemented by the Benefit Section.

This policy document has taken into consideration the requirements of the following legislation: -

- Data Protection Act 1998
- Police and Criminal Evidence Act 1984
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Public Interest Disclosure Act 1998
- Freedom of Information Act 2000
- Social Security Administration Act 1992
- Social Security Administration (Fraud) Act 1997
- Child Support, Pensions and Social Security Act 2000
- Social Security Fraud Act 2001
- Local Government Act 2000
- Fraud Act 2006
- Welfare Reform Act 2007

### Policy

The purpose of this policy is to assist the Council in making a decision on what action should be taken in the light of a proven criminal breach of the law. The council has a fiduciary duty in relation to public resources. The delegated powers of the Council to the Director of Community Services enables officers to identify fraudulent claims for Housing and Council Tax Benefit fraud and to instigate prosecutions in appropriate cases. The Borough Solicitor has a delegated power to institute criminal proceedings. Every case will be decided based on the facts.

In considering whether a sanction is appropriate the Council must therefore consider the following:

- Is there sufficient evidence for a realistic prospect of a conviction?
- Is a prosecution in the public interest?

- The deterrence value of publicity.

When a potential sanction case is identified by a Benefit Fraud Investigator, the case papers must be passed to the Benefit Supervisor for consideration. If the Benefit Supervisor considers the case to be suitable for a sanction, they will prepare a summary and make a recommendation. A panel made up of the following people will then consider the recommendations: -

The Housing Benefit and Supporting People Manager, the Deputy Benefit Manager, the Senior Control Officer, the Senior Benefits Officers, the Training and Appeals Officer, Senior Customer Services Advisor and the Systems Administrator for Housing Benefits.

The decision to apply a sanction will be taken by the Housing Benefit and Supporting People Manager in consultation with the panel.

In making the decision as to whether to apply a sanction, the following criteria will be used:

- The amount of money obtained and the duration of the offence;
- The suspect's physical and mental condition;
- Voluntary disclosure;
- Any previous incidence of fraud;
- Social factors;
- Whether there is evidence that the defendant was a ringleader or an organiser of the offence;
- Whether there is evidence of the offence being premeditated;
- Whether there are grounds for believing that the offence is likely to be continued or repeated, for example by a history of recurring conduct;
- Whether the offence, although not serious in itself, is widespread in the area where it was committed;
- Whether the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution simply because they can pay compensation)
- Failure in the investigation;
- Failure in benefit administration, including delay
- Whether the defendant holds a position of trust or responsibility within the community such as a magistrate, police officer etc.
- Whether the defendant had a higher understanding of the benefits system, such as someone who works or has worked in Housing or Council Tax benefits for this or any other council, or any related department such as Audit, Housing or Council Tax Registration.
- Whether there has been one or more false statements made in order to gain benefit to which the defendant knew they were not entitled to.

## **Sanctions**

Further to the above, the level of overpayment will in part determine whether a sanction is appropriate, and if so which one.

### **Informal warning letter**

If more than one of the following apply:

- This is a first offence
- There was no planning involved in the process
- There was no other person involved in the fraud
- The person is in the opinion of the panel in genuine hardship
- The person is in receipt of support and assistance from Social Services or requires supported accommodation

This case may not be appropriate to sanction. It may be appropriate for the Benefit Supervisor to send a warning letter to the customer.

### **Simple Caution**

The simple caution system was introduced in England and Wales on 1/06/1998. It is a warning given in certain circumstances as an alternative to prosecution.

If more than one of the following apply:

- The overpayment is less than £2,000
- This is a first offence
- The person has admitted the offence during the interview under caution The evidential requirement for prosecution is satisfied
- There are no mitigating social or health factors

This case may be appropriate to offer a simple caution.

### **Administrative Penalty**

If more than one of the following apply:

- The overpayment is more than £100.00 but less than £2,000
- This is a first offence or this is a second offence, and the person has previously received a simple caution for an earlier offence
- The person has not admitted the offence during the interview under caution
- The evidential requirement for prosecution is satisfied
- There are no mitigating social or health factors
- Awarding an Administrative Penalty will not cause severe hardship

This case may be appropriate to offer an Administrative Penalty. Section 115A and 115B of the Social Security Administration Act 1992, and subsequently amended by the Social Security Administration (Fraud) Act 1997 and the Social Security Fraud Act 2001 governs the use of Administrative Penalties. An Administrative Penalty is currently set at 30% of the gross recoverable overpayment, rounded down to the nearest penny.

### **Prosecution**

If more than one of the following apply:

- The overpayment is £2,000 or more
- There were other people involved in the fraud
- There is evidence of planning involved in the fraud
- The person holds a position of trust within the community or could be expected to have a greater understanding of the benefits scheme
- The evidential requirement for prosecution is satisfied
- There are no mitigating social or health factors
- The overpayment is less than £2,000 and the defendant has made a false statement on one or more occasions in order to gain benefit to which he or she was not entitled.

If the panel recommends that the case be submitted for prosecution then the Benefit Supervisor will refer the file to Legal Services.

These guidelines are not prescriptive. Every case will be considered on its own merits, even if they do not fall into any of the above categories and action will be considered as appropriate.

### **Refusal to accept a simple caution or administration penalty**

If a customer refuses to accept a simple caution or administrative penalty the case will always be referred to legal services to consider prosecuting for the benefit offence.

### **Legal Services**

The Benefit Supervisor will pass the file to the prosecuting solicitor in legal services. They will consider the file, and will consider if there is sufficient evidence to proceed with a prosecution and apply the public interest test.

The prosecuting solicitor will notify the Benefit Supervisor whether the case should be prosecuted or not.

If the prosecuting solicitor determines that the case should not be prosecuted then the Benefit Supervisor will send a warning letter to the customer.

If the case is suitable for prosecution, the file will be returned to the Benefit Enquiry Unit for a prosecution file to be prepared.



## Joint Working

Where the case has been investigated as part of a joint working exercise, the Council will make its own determination of whether a sanction was appropriate, and if so which one. If the case has been jointly worked and interviewed under caution with the DWP the following procedures should apply: -

- If both parties consider offering a simple caution, both the DWP fraud sector manager and the Benefit Supervisor should offer this at the same meeting.
- If both parties consider offering an Administrative Penalty, either the DWP or the Council can choose to delegate this function to the other party to offer on their behalf, or to offer the Administrative Penalty at the same meeting.
- If both parties consider prosecuting for the benefit offence, the Council will normally use legal services to prosecute for the Housing or Council Tax benefit offence, although it reserves the right to instruct the DWP's Solicitors Branch (Prosecutions).
- When deciding whether a sanction or prosecution is appropriate, the decision will rest with the lead organisation. The other organisation will then decide whether they wish to join in with that party's sanction action.

## **Investigating National Benefits**

Where appropriate, and where the law allows under the Welfare Reform Act 2007, the Council will investigate allegations of certain benefits administered by the DWP (called the national benefits). If the allegation is proven, then the Council will consider offering a sanction or prosecuting for the offence, where the law allows, and according to the details of this Sanctions Policy.

## Administrative Penalties for Employers

Section 109B(2) or 109C of the Social Security Administration Act 1992 gives Authorised Officers the powers to make enquiries with employers regarding their employees wage details, where there is reason to believe that a benefit offence may be being committed. Section 115B of the Social Security Administration Act 1992 inserted by the Social Security Fraud Act 2001 governs the use of offering Administrative Penalties to Employers.

An Administrative Penalty may be appropriate where an employer has committed an offence of:

- Making a false statement or
- Obstructing an Authorised Officer or
- Failing to provide the required information or
- Committing false accounting

when dealing with an enquiry concerning their employees ie under Section 109B(2) or 109C of the Social Security Administration Act 1992. The Council should establish that an offence has been committed, that there are grounds to take proceedings against the employer, but that this is not a first option. In these cases an Administrative Penalty of £1,000 may be offered to the employer.

However:

- If the Administrative Penalty is being offered to the employer and
- The grounds for instigating proceedings against them is because of incitement, conspiracy or aiding and abetting (ie conduct that facilitated the employee to commit a benefit offence) and
- The employers conduct involved more than five employees.

an Administrative Penalty of £5,000 should be offered to the employer.

Where the employer has less than 5 employees the Administrative Penalty offered is calculated at £1000 multiplied by the number of employees involved in the employers conduct.

Repeat offences may be considered for prosecution.

### ***Landlords***

When a Landlord fails to notify the Council of a change of circumstances, they may be paid more benefit for their tenants than they are entitled to. The Council makes Landlords aware of their duty to report known changes and failure to do so is an offence under:

Section 112 (1C 1D 1E) or  
Section 111A (1C 1D 1E 1F) of the Social Security Administration Act 1992.

Landlords are considered by the Council to operate in a professional manner. When an allegation is received that a landlord has failed to report a change in circumstances that they were aware of, or any other offence such as providing a false document in order to obtain benefit, this will be thoroughly investigated and the landlord may be interviewed under caution.

Where an offence has been committed, the Council will consider an appropriate sanction (either an administrative penalty or prosecution) and will recover any overpaid benefit.

The Council will also consider whether the landlord should receive any future payments of Housing Benefit.

## **Recovery of fraudulent overpayments**

All overpayments that are found to be created as the result of fraudulent activity will be vigorously recovered in line with the Anti-fraud policy and strategy and the Overpayment Policy.

## **Publicity**

Where appropriate and making use of the professional services within the Council, consideration should be given to releasing details of any potential prosecution to the press, with a view to the details being published in the local press.

Alternatively the Council should consider supplying such details as is reasonable in response to a request from a member of the press. The decision on this matter should be based on whether such action will assist the objective of deterring fraud.

This Sanctions Policy is not designed to be a definitive document, and any prosecutions will always have deference to individuals' circumstances.