
ANTI-FRAUD AND CORRUPTION ARRANGEMENTS

Purpose of Report

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

Background

2. The Council's anti-fraud and corruption arrangements were updated in 2005 and approved by Council (minute C48 Sept 2005). They comprise an Anti-Fraud and Corruption Policy Statement and Strategy, Anti-Money Laundering Policy and a Housing Benefit/Council Tax Benefit Anti-Fraud Policy, Strategy and Sanctions Policy.
3. The arrangements are subject to annual review to ensure that they remain appropriate and the last review was considered by this Committee in December 2006 when updates to the Anti-Money Laundering Policy and the Housing Benefit/Council Tax Anti-fraud Policy, Strategy and Sanctions Policy were approved (minute A24/Dec/06).

Information and Analysis

Publicity and Training

4. There is a folder on the internet covering anti-fraud and corruption in which the relevant documents can be viewed together with practical guidance to prevent and identify fraud.
5. Publicity is to appear in the 2008/09 council tax wall planner sent to every home and business in Darlington re-emphasising the Council's zero tolerance approach to fraud and corruption. This publicity will refer to a dedicated 24 hour fraud hotline that has been established to allow the public and staff to report suspected fraud and corruption. To coincide with this new arrangement the folder on the intranet is to be further enhanced, a page developed on the Council's website, an article is to appear in the Flyer and posters are to be displayed in council buildings.
6. All school governing bodies adopted the Council's anti-fraud and corruption arrangements during the Spring 2007 term following a briefing session to Head Teachers and Governors by Audit Services staff. This aspect is one of the requirements of the new Financial Management Standard in Schools (FMSiS). At individual FMSiS assessments by Audit Services schools have been asked their views upon the awareness/training implications of the documentation. Audit Services are in ongoing discussions with Children's Services generally, on the most appropriate method(s) of ensuring that schools are aware of and understand the content of relevant corporate policies.

7. The roll-out is also taking place of learning management software (CETIS) to better record acceptance and understanding by employees and members of a range of corporate policies/processes and this includes the anti-fraud and corruption arrangements
8. In order to keep updated with topical issues a member of staff from Audit Services has attended an informative workshop on 'Fraud and Corruption Risk Management – the Audit Perspective' organised by the CIPFA Better Governance Forum and a recent Information Assurance and Fraud Awareness Day organised by the Midlands CIPFA branch network. This has helped to inform this review of the Council's anti-fraud and corruption arrangements and the update of the documents.

Reported Suspected Frauds

9. The following table shows potential frauds that have been notified by departments to Audit Services during 2007/08, together with a summary of current status/outcomes:

Table 1

Department	No of potential frauds investigated	Results of investigations
Community Services.	4	1 suspected theft - staff member suspended awaiting disciplinary hearing. 1 case of suspected theft referred to the police who were unable to progress due to lack of substantive evidence. 1 fraudulent invoice payment. Details passed to the police who are investigating a former agency employee. Amount involved of £7236 to be recovered via insurance. 1 allegation of misappropriation of council property by a council employee. Investigation concluded no evidence of misappropriation.
Children's Services.	2	1 theft at a school and 1 theft at a children's centre. Both cases were reported to the police who were unable to progress due to lack of evidence.

10. The number of reported incidents is low. The majority were identified by staff vigilance, audit work and through existing control mechanisms, and where necessary improvements in security arrangements and existing systems, have been made. However the Council is not complacent.

National Fraud Initiative (NFI)

11. The Council is participating in NFI 2006 and has been investigating the output of potential data matches supplied to the Council by the Audit Commission in late January 2007 covering creditors, payroll, housing rents, housing benefits and student loans (mandatory datasets) and blue badge disabled parking permits, market traders and taxi drivers (optional datasets). Quarterly returns showing the progress of investigations have

been made online to the Audit Commission in accordance with their requirements at the end of May and September 2007 with the final return due at the end of December 2007.

12. To date six frauds, all housing benefits, have been uncovered with total savings of £8,587.

Housing Benefit Arrangements

13. Performance to date in this financial year has shown an improvement as illustrated in Table 2 below. A total of 49 sanctions have been achieved in the period April to November 2007, including 4 prosecutions resulting in guilty verdicts at Bishop Auckland Magistrates Court. A further 2 cases are currently in progress. This compares with the total number of sanctions of 31 achieved for the same period in 2006/07. 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
Formal Cautions	15	£20,995.46	
Administrative	30	£18,427.16	£5,097.42
Prosecutions	4 found guilty 2 in progress	£13,390.70 £2,460.02	

14. Articles are to be submitted for inclusion in the Town Crier and Hot News publications to be issued early in the New Year demonstrating the Council's commitment to eliminating benefit fraud. The figures for the number of sanctions offered and accepted for 2007 will also appear on the website in the New Year.

Review of Documentation

15. The document review and update has encompassed the introduction of a Fraud Response Plan. This is a recognised, standard document which many local authorities retain. It covers the operational elements of fraud response providing direction and help to officers in dealing with suspected fraud and corruption and supplements the existing Anti-Fraud and Corruption Policy Statement and Strategy.
16. The Council's Money Laundering Policy has also been reviewed in the light of the implications of the Money Laundering Regulations 2007, which enter UK law on 15th December 2007. The 2007 Regulations repeal and replace the Money Laundering Regulations 2003 and implement the third EU Money Laundering directive. Advice from Legal Services confirmed that the content of this legislation does not effect the Council's current arrangements and therefore no amendments to the Policy are required.
17. The Housing Benefit Anti-Fraud Policy and Strategy have been updated to take into account name changes. They have also been updated to record the actions being taken to meet the new performance indicator NI 180 recording the policy and strategy required to encourage customers to notify the Council of changes in their circumstances. The Housing Benefit Sanctions Policy has been amended to take into account new legislation

which may be used when considering if an offence has been committed, namely the Fraud Act 2006 and the Social Security (Local Authority Investigations and Prosecutions) Regulations 2008. It also states that the Council may when the law allows investigate and prosecute certain benefits administered by the DWP (called the National Benefits).

Conclusion

18. The anti-fraud and corruption arrangements have been issued more widely to schools and approved by their governing bodies during the last year. Further developments are in hand to communicate the Council's zero tolerance approach to fraud and corruption to the public and employees and streamline the reporting of suspicions. There remains a relatively low level of suspected fraud reported by Departments with increased successful sanctions reported by the Housing Benefits Section.
19. A Fraud Response Plan has been drafted to consolidate arrangements. No changes are recommended to the Anti-Fraud and Corruption Policy Statement and Strategy or to the Anti Money Laundering Policy. Some minor changes to the Housing Benefit documents are however recommended to reflect current terminology and changes in legislation.

Legal Implications

20. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

21. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Recommendations

22. It is recommended that the contents of the report be noted and that the Fraud Response Plan and updated Housing Benefit/Council Tax Anti-Fraud Policy, Strategy and Sanctions Policy at Appendices A B C and D be approved.

Paul Wildsmith
Director of Corporate Services

Background Papers

No Background papers were used in the preparation of the report.

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**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 will 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. formal 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 formal 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 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 (1C,1D,1E,1F) 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 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, Home Office, Pension 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 1988. 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 and the Regulation of Investigatory Procedures Act 2000, Police and Criminal Evidence Act 1984 Code of Practice.

- Duties and Considerations of Benefit Fraud Officers

When investigating fraud, Council benefit fraud investigators, and 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 Benefits 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 Benefits 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. 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 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 either 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, 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 Performance Standards. 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. 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 DWP performance standards. 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 who have received training in the standards of verification shown in the Department for Work and Pensions Security Guidance Manual will verify the information 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 over the phone from Her Majesty's Revenue and Customs 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 following a programme of visits or by other appropriate methods in accordance with guidance received from the Department for Work and Pensions.

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, the Pension Service, or by telephone via the DWP's Customer Management Service. The DWP will then forward to the Council a document called a "LA Input document", 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 in the DWP's Security Guidance Manual. Where there is a query with the supporting evidence, the Council may seek clarification from the DWP and /or the customer.

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

It will be reviewed annually to ensure that it asks plain language questions that help the claimant in obtaining benefit. 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 that will at least meet the standard set by the model review application form found in the Security Guidance Manual.

Change of Circumstances

The Council will make every customer aware of their duty to tell it 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 will 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 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. A 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, articles in the Council produced publications, and articles on the Internet website. All successful prosecutions will be reported to the publicity department for them to publicise.

A quarterly newsletter will be distributed to all members of the Housing Benefit, Housing, Council Tax and Customer Services team, giving a brief outline of all the cases that have accepted a sanction, or whom the courts have delivered a verdict, along with the outcome. It will encourage staff to refer any cases where they suspect there is an irregularity for investigation, 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 Benefit 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 Service and DWP benefits 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 will 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 of Work and Pensions;
- the Pensions Service;
- Her Majesty's Revenue and Customs;
- other Councils;
- other Council Departments.

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 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.

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 or 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 will also be recorded with the Two Strikes Central Team.

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 Two Strikes Team.

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 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 Council Tax departments.

The Council will provide training in the standards of verification required in the Security Manual 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 Housing, Customer Services Section and Benefits staff on the standards of verification required by the Security Manual, 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 minimum standards of evidence provided 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 Disclosure Act 1998
- Freedom of Information Act 2000
- Social Security Administration Act 1992
- Social Security Administration (fraud) Act 1997
- Child Support, Pensions and Miscellaneous Benefits Act 2000
- Social Security Fraud Act 2001
- Local Government Act 2000
- Fraud Act 2006
- The Social Security (Local Authority Investigations and Prosecutions) Regulations 2008

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 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 Officer, the Training and Appeals Officer, 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;

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 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.

Formal Caution

The formal 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 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 formal caution.

Administrative Penalty

If 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 formal 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 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 evidential requirement for prosecution is satisfied.
- There are no mitigating social or health factors.

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 formal caution or administration penalty

If a customer refuses to accept a formal 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 it's 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 formal caution, both the DWP fraud sector manager and the Benefit Supervisor should offer this at the same meeting.
- If both parties consider offering an Administration Penalty, either the DWP or the Council can choose to delegate this function to the other party to offer on their behalf.
- If both parties consider prosecuting for the benefit offence, the Council will use legal services to prosecute for the Housing or Council Tax benefit offence.

- 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 Social Security (Local Authority Investigations and Prosecutions) Regulations 2008, 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.

Administration 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 i.e. 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 (i.e. conduct that facilitated the employee to commit a benefit offence) and
- The employers conduct involved more than 5 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.

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 detail of any successful prosecution to the press.

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