

## **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).

Where appropriate, when the offence has been wholly committed after 01/04/2010 the Council will consider applying a “one strike” sanction. This may be applied on a first offence where the customer has accepted a simple caution, administrative penalty or been found guilty of an offence by the courts, and may reduce the customer’s entitlement to benefit for 4 weeks.

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 Benefits 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 Benefits 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 Head of Revenues and Benefits 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 Head of Revenues and Benefits.

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 Team Leader, the Investigations Team Leader, or a member of the Investigation Team, 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 data required to review the claim details.

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 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.