

**Committee:** OPERATIONS COMMITTEE

**Agenda Item**

**Date:** February 1, 2007

**6**

**Title:** ANTI FRAUD POLICY

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### Summary

1. On 2 February 2006 this Committee approved an Anti Fraud Policy in relation to housing benefit and council tax benefit. Good practice requires that such a policy should be reviewed regularly. The current policy needs amendment to take account of the change in funding arrangements and the shift in emphasis from sanctions to recovery.

### Recommendations

2. Members adopt the revised policy which appears as Appendix A to this report highlighting the amendments from the former policy.

### Background Papers

3. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
  - DWP Sanction Policy in respect of fraudulent social security benefit claims published 4/5/2006 available at [www.dwp.gov.uk/resourcecentre/policy\\_strategy.asp](http://www.dwp.gov.uk/resourcecentre/policy_strategy.asp)

### Impact

4

Communication/Consultation	The Council's Anti Fraud Policy is published on the Council's website.
Community Safety	None.
Equalities	None.
Finance	Greater emphasis on recovery will have a positive financial impact upon the Council.
Human Rights	None.
Legal Implications	None.
Ward-specific impacts	None.

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Workforce/Workplace	The current staff structure is unable to process all cases which are referred and which may merit a sanction under the current policy. Officers need to prioritise investigations to ensure that resources are deployed where the prospects of successful detection are the highest.
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## Situation

5. The Government guidance as to when prosecution should be considered has not changed since its 2005 policy review. The guidance says that prosecution should be considered in any of the following circumstances:-
- A gross overpayment of all benefits exceeds £2,000
  - False identities or other personal details have been used
  - False or forged documents have been used
  - Official documents have been altered or falsified
  - The person concerned occupied a position of trust
  - The person concerned assisted or encouraged others to commit offences
  - There is evidence of premeditation or organised fraud
  - The person concerned has relevant previous convictions
  - The customer had previously been convicted of benefit fraud
  - The amount of the adjudicated overpayment is under £2,000 and the offer of an administrative penalty or formal caution is not accepted
6. When revising the policy in February 2006 the Committee accepted my recommendation that a lower limit should be fixed for overpayments than that suggested by The Department of Works and Pensions. The reason for that is that the DWP's figure of £2,000 included all benefits. Officers frequently experience difficulties in obtaining details from the DWP of the amounts (if any) of overpayment of benefits other than housing and council tax benefits. Uttlesford's figure was therefore based upon the latter benefits only.
7. Prior to the current financial year the Council received a subsidy in respect of sanctions imposed. £1,200 was received from the Government in respect of cautions, administrative penalties or summonses being issued. In the event of a successful conviction a further subsidy of £2,000 was received. There are now no financial incentives to the Council to impose sanctions.
8. The DWP stance is now angled more towards 'interference' than sanction. Within its Sanctions policy it states:
- '2.1 The Department for Work and Pensions is committed to the prevention, detection, correction, investigation and, where appropriate, prosecution of fraudulent benefit claims.
- 2.2 The aim is to prevent criminal offences occurring by making it clear to our customers that they have a responsibility to provide accurate and timely information about their claims; to punish wrong doing; and to deter offending.

- 2.4 Each potential fraud referral is assessed against national criteria. This assessment will result either in cases being investigated further under criminal investigation standards as set out in the remainder of this document or referred for customer compliance action. Customer compliance action usually comprises a robust interview with the customer whether they are questioned about any allegations. Further action depends upon the outcome of the interview but they will be reminded of their responsibilities and may be advised about future conduct and required to rectify or withdraw their claim’.
9. The proposed revised policy differs from the DWP guidelines in terms of the figure above which a prosecution would normally be considered appropriate. I consider the difference between the proposed £3,000 as against the DWP guideline of £2,000 is justified on the basis that the Council does not have sufficient resources to process prosecutions for cases between £2,000 and £3,000. In the absence of Government funding it is not possible within budget to employ further staff which would be required to enable prosecutions at that level to be brought.
10. The DWP guidance does not distinguish between cautions and administrative penalties. Within the DWP guidance both are said to be suitable for cases where the offence is less serious and the overpayment is under £2,000. The draft policy put forward for consideration places the emphasis on administrative penalties where no other factors suggest prosecution, the overpayment is less than £3,000 and hardship to the claimant would not result. An administrative penalty is 30% of the amount of the overpayment. Whilst an administrative penalty is not recordable in the same way as a caution, nevertheless it can impose a considerable financial sanction upon the individual which serves both as a punishment and a deterrent against the commission of further offences. Further, although no national record of administrative penalties is kept officers are aware of their previous investigations and in the event of a re-offending within the district the policy provides that a prosecution would ensue regardless of the amount of the overpayment.

**Risk Analysis**

11. The following have been assessed as the potential risks associated with this issue.

Risk	Likelihood	Impact	Mitigating Actions
The Benefit Fraud Team fail to meet their performance indicators.	LOW The performance indicator relates to all forms of sanction and does not distinguish between cautions, administrative penalties or prosecutions. Based on past performance the PIs are easily attainable.	LOW. The Council no longer receives subsidies based upon sanctions administered.	None required.