

Committee: FINANCE & ADMINISTRATION

Agenda Item

Date: 27 January 2011

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Title: ANTI FRAUD POLICY

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Item for decision

Summary

1. On 31 January 2008 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. Consistent with that practice the policy has been reviewed on an annual basis and is therefore due for review now.

Recommendations

2. Members endorse the existing policy.

Background Papers

3. Anti-Fraud Policy attached.

Impact

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Finance	Administrative penalties are retained by the council generating a small income but this is not a factor which should be taken into consideration in determining a sanctions policy.
Health and Safety	None.
Human Rights	None.
Legal implications	None.
Sustainability	None.

Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

4. In January 2008 the council's policy with regard to sanctions for benefit fraud changed. Prior to that time prosecution was the preferred option. Since January 2008 the first option for cases of benefit fraud has been an administrative penalty with prosecutions and cautions being reserved for non-standard cases.
5. Uttlesford currently has 4418 residents claiming housing benefit and/or council tax benefit. In the last 12 months the enforcement team has investigated 368 cases of suspected benefit fraud. Allegations come from a number of sources including the benefits team, the recoveries team and members of the public but by far the largest source of referrals is the Housing Benefit matching service which provides data which indicates a possible mis-match between an individuals circumstances and eligibility for benefits.
6. Few of the referrals received lead to the detection of a fraud. This is for a number of factors e.g. the matching service referred to above provides historic data which in many cases is not relevant to a current claim, allegations of co-habitation are incredibly resource intensive and would involve a disproportionate amount of work diverting efforts from other, easier investigations (allegations of co-habitation are passed on to the DWP for investigation), in other cases the investigation does not produce evidence of a fraud which would support a sanction.
7. In the last 12 months the enforcement team have detected 27 cases of fraud resulting in 3 prosecutions, 23 administrative penalties (totalling £10227.78) and 1 formal caution. £75360.46 of recoverable overpayments have been identified and can be recovered by the council. These are valuable as the government reclaims a percentage of overpayments from the council but the council retains 100% of overpayments recovered.
8. The existing policy has worked well with the enforcement team consistently meeting its benefit fraud targets in terms of sanctions. There is no justification at this stage for any modification to the policy. However the policy may need to be reconsidered further before the next annual review in the light of the proposed revenues and benefits partnership with Harlow.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
The enforcement team fail to meet their performance indicators.	1, by relieving investigators of the bureaucracy involved in prosecutions more offences are able to be detected.	1, there is no direct benefit to the council in apprehending offenders.	None required.

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Uttlesford District Council

Housing Benefit & Council Tax Benefit

Anti-Fraud Policy

Part 1 - Introduction

- 1.1. Uttlesford District Council (The Council) is committed to maximising the award of benefit to those who are entitled to receive it, and assisting in the alleviation of poverty and deprivation (see Benefits Vision Statement and Policy Objectives, approved by the Council in September 2003). Benefit staff, including enforcement investigators, have a role to play in ensuring that claimants receive the correct benefit applicable to their circumstances. The Council has to distinguish fraud from the genuine mistakes or misunderstandings caused by the complexities of the schemes.
- 1.2. However, the Council acknowledges that some people will attempt to obtain benefits or continue to receive benefits to which they are not entitled. Where this is the case, the Council will consider the circumstances of the individual and, where appropriate, apply a formal sanction. A copy of the Council's Sanctions Policy is attached as Appendix One.

Part 2 - Staff roles / training

- 2.1. The success of the Council's anti-fraud policy is dependant upon the active involvement and co-operation of all staff within the Council. In particular, Benefits staff are expected to refer all cases where benefit fraud is suspected promptly to the Enforcement Team.
- 2.2. The Enforcement Team, which is established and well-trained, embrace all the latest investigation techniques and apply all relevant legislation. The Team is responsible for following up any suspicion or allegation of benefit fraud from many sources including data matching, anonymous sources, staff referrals etc.
- 2.3. The Assistant Chief Executive – Legal oversees the work of the Enforcement Team. This officer formally reviews the caseload of the team on a monthly basis. In addition, key decision stages are built into

the investigative process, at which formal approval is required before any further action is taken.

- 2.4. The same expectation is also made of staff who collect evidence on behalf of the Benefits Section; for example housing officers, Council Tax staff and receptionists. Staff should be vigilant when handling documents and ensure that any irregularities are brought to the attention of the Enforcement Team.
- 2.5. It is not acceptable for any member of staff to ignore a potential fraud. To encourage a culture of openness and honesty staff are advised that they can report any concerns in confidence and without fear of reprisal ~ see PPN 61: Confidential Reporting Code.
- 2.6. The Council also actively encourage referrals from the public. All calls are treated in confidence and are dealt with by the Customer Relationship Management Centre which passes information on to the Enforcement Team.
- 2.7. Training - All new staff joining the Benefits Section will receive fraud awareness training and are given the opportunity to accompany investigation or verification framework visiting officers on visits to benefit claimants, to gain an insight into what is expected of them.
- 2.8. Additionally refresher fraud awareness will be delivered to all benefits staff annually. Staff working in other areas of the Council who are required to handle documents or deal with benefit customers will also receive fraud awareness training or guidance.
- 2.9. It is vital that Investigation and Visiting Officers undertake appropriate training to guarantee the quality of their work. It is the Council policy that senior investigators are qualified to PINs standard. This qualification provides evidence that all investigators are competent to comply with all appropriate legislation e.g. Regulation of Investigatory Powers Act (RIPA), Police and Criminal Evidence Act (PACE), Criminal Procedures and Investigation Act, etc.
- 2.10. Training requirements for investigators are reviewed annually, as part of the appraisal process, or more frequently following the introduction of new legislation. This ensures that investigation techniques and procedures are kept fully up to date.

- 2.11. Integrity – The Council's expectation is that staff and Members will lead by example in ensuring adherence to rules, procedures and recommended practices. It is a requirement that staff declare any personal or prejudicial interest when dealing with benefit claims. To ensure that they act with impartiality at all times employees should not personally deal with benefit claims submitted by a spouse, partner, relative or friend.
- 2.12. If a benefit claim or any supporting documents are received as detailed above, the case should immediately be brought to the attention of the employee's supervising officer who should arrange for another officer to deal with the claim.
- 2.13. Staff should never access any secure systems on behalf of, or to gain information about, anyone, other than as required for the purposes of carrying out their normal duties. Failure to comply with the relevant policies and procedures could render an employee liable to disciplinary action, which may include dismissal.
- 2.14. It is an unfortunate fact that staff working within the Council sometimes commit fraud. Robust recruitment and selection procedures mitigate against employing staff that falsify qualifications and experience in order to secure employment. Good practice and procedures on recruitment and selection, as advised by Personnel staff, must be strictly adhered to. Proof of qualifications must always be obtained before a candidate is offered employment.
- 2.15. Should however, a member of staff be suspected of committing benefit fraud, Enforcement Team will carry out an investigation in the normal way. The employee's Director and The Head of Human Resources will be notified promptly of the outcome of any sanctioned action.
- 2.16. Potentially violent action (violence, intimidation, threats or abusive behaviour) towards the Council's employees is unacceptable and will not be tolerated. Incidents of such behaviour will, when circumstances justify, be reported to the Police. Persons who are deemed to be a potential threat to staff will also have their names placed on the Council's Visiting Officer Register in accordance with the laid down procedure. The purpose of the register is to enable managers to devise appropriate strategies to protect staff who may be at risk. These might include:
- Only allowing the potentially violent persons to be interviewed by prior appointment;
 - Only visiting the person/premises by pre-arranged appointment;
 - Ensuring the person/premises are not visited alone;
 - Ensuring the person is not interviewed alone;

- Only visiting in conjunction with other agencies (e.g. the police).
- 2.17 Before carrying out visits, benefit & investigations staff must check the register.
- 2.18 A number of additional procedures and protocols have been put in place to improve investigation staff safety when making visits. These are set out in the Investigators Procedure Manual, which is issued to all investigations staff. These procedures must be closely adhered to at all times. All Investigation and Benefit Visiting staff receive training in dealing with handling violent and aggressive situations.
- 2.19 Feedback - It is important that staff receive feedback on the cases that they have referred to the Enforcement Team to encourage an anti-fraud culture and to motivate staff to make further referrals. Staff should rightly feel gratified when a case that they have referred results in a fraud being stopped or prevented.
- 2.20 At the completion of an investigation, the Enforcement Team, on a case-by-case basis, give feedback to benefits staff on the outcome of investigations. Although the Enforcement Team is bound by confidentiality rules and cannot give the same level of feedback to staff working in other areas of the Council, they do give general feedback on the success rates of their referrals. Details are provided in the Enforcement Team's annual report.
- 2.21 IT security – Housing benefit-related data requires a high degree of confidentiality and security. The Council's detailed policy on IT security, as contained within PPN 63 IT Acceptable Use Policy (a copy of which is available via the Intranet) should be adhered to at all times. In particular, attention should be paid to password security, use of Council IT equipment, data protection and Incident Reporting.

Part 3 - Prevention / Process

- 3.1. The Council is committed to maximising the award of benefit to those who are entitled to receive it. However there are those who attack the benefits system and take money from customers in genuine need and consequently, safeguards need to be built into our procedures to prevent fraud entering the benefits system. The Council does this in many ways:-
- Verification Framework - The Council has fully implemented the national Verification Framework (VF) from the 1st August 2003. This secures the gateway to the system by carrying out more comprehensive cross-checking at new and renewal claim stage and introduces a pro-active in-year visiting programme linked to a formal risk analysis of cases.

- Royal Mail do-not-redirect / Internal data matching - The Enforcement Team uses all data matching opportunities such as the Department of Works & Pensions (DWP) Housing Benefit Matching Service, the National Fraud Initiative operated by the Audit Commission and the Royal Mail do-not-redirect service. The team also carry out ad hoc data matching, both with approved organisations and through cross matching of our in-house benefit system with known risk groups, such as taxi drivers.
- Controls / audit's role – The work of both the Revenues Section and the Enforcement Team are subject to regular, independent review by both Internal Audit and the Council's external auditor.
- The Enforcement Team has direct links to the Land Registry to enable checks on land and property ownership to be carried out.
- Service level agreements (SLAs) – The Enforcement Team work closely with other organisations including the DWP, the police and the rent officer service, comparing and sharing information to prevent fraud. Formal service level agreements are in place with the main external agencies and regular liaison meetings are held to monitor the effectiveness of the agreements. The team also work closely with other local authorities sharing best practice. The team are also members of the Local Authorities Investigation Officers Group and sit on the committee of the Essex Investigations Group.
- Hotlines - Members of the public are encouraged to report concerns they may have to the Enforcement Team. To encourage referrals from the public a free-phone Hotline is provided. This is advertised in a number of ways, including press releases, advertisements in newspapers etc, on Council Tax leaflets etc.
- Joint investigations – The Enforcement Team carry out joint investigations with the DWP Counter Fraud Investigation Service and have reciprocal arrangements in place to recover overpayments.

Part 4 - Detection

4.1. Upon receipt of a report of a suspected housing benefit fraud, whether from a member of the staff or the public, the Investigating Officer will:-

- Deal promptly with the matter.
- Record all evidence received.

- Ensure that evidence is sound and adequately supported and secure.
 - Determine whether the case is worthy of investigation balancing the likely resources to be required against the probable outcome in accordance with criteria agreed with the Assistant Chief Executive
 - Liaise with other agencies and departments e.g. Department for Work and Pensions Counter Fraud Investigation Service, Internal Audit where appropriate, Police, other departments of the Council and other Local Authorities.
 - Arrange for the claimant's entitlement to be independently re-assessed by the Revenue Section, on the basis of new information gathered by the investigations staff.
 - Consider, in light of the evidence, which type of sanction, if any, should be applied (see Part 5 below).
- 4.2. All investigations are carried out in accordance with the provisions of PACE, RIPA, Human Rights Act and other relevant legislation / best practice policy in operation at the time.

Part 5 - Sanctions

- 5.1. The Enforcement Team has undertaken prosecutions for the most serious cases of benefit fraud since 1997. The range of sanctions available now includes formal local authority cautions and administrative penalties and is likely to be extended to cover conditional cautions and fines.
- 5.2. The choice of sanction applied to any particular fraud depends upon a number of factors. Further details are contained within the Sanctions Policy, attached as Appendix One.
- 5.3. Where appropriate, the Council carry out joint prosecutions and sanctions with the DWP Counter Fraud Investigation Service and have arrangements in place to recover overpayments.
- 5.4. In addition to the application of a formal sanction, it is the Council's policy to actively recover all instances of fraudulently obtained housing benefit. Where necessary, such overpayments are to be pursued through the civil courts.

Part 6 - Deterrents

- 6.1. Press releases are issued for all successful prosecutions, in order to publicise benefit fraud cases, as a deterrent to those who seek to defraud the Council. The Council also publicises its work through newspaper articles, advertisements on Council Tax literature etc and posters placed in public buildings.

- 6.2. The Council website (www.uttlesford.gov.uk) gives details of the work of the Enforcement Team, including information about the type of frauds dealt with by the Council. The website contains a form to enable the public to report suspicions of fraud.

Appendix One

Uttlesford District Council

Sanctions Policy

1. The Council believes that those who are guilty of benefit fraud should be punished but recognises that prosecutions require a great deal of resources and that therefore prosecutions may not be a proportionate response in many cases.
2. The Council therefore operates a policy that where in the opinion of the Assistant Chief Executive – Legal or those authorised by him there is sufficient evidence to secure a conviction if the matter went to court an administrative penalty should be considered as the first option.
3. Cases which would not generally be considered suitable for an administrative penalty are:-
 - where an administrative penalty would cause the offender extreme hardship
 - where the claimant is a repeat offender
 - where the offender is an employee of the Council or is in a position of trust
 - where in the opinion of the Assistant Chief Executive – Legal if the matter were to proceed to court the offender would be likely to receive a punishment significantly less severe than an administrative penalty
 - where in the opinion of the Assistant Chief Executive – Legal if the matter were to proceed to court the offender would be likely to receive a punishment significantly more severe than an administrative penalty
4. Where an administrative penalty would cause the offender hardship consideration will be given to offering a caution or instigating a prosecution. A prosecution will be indicated when:-
 - The claim has been prepared with the sole purpose of obtaining benefit by deception or
 - The fraud has been going on for a long period of time (e.g. over twelve months) or
 - A review has been completed and the claimant does not inform the Council of changes in circumstances or

- The claimant has failed to respond to a request from the Council for information which (if correctly given) would identify a potential overpayment or
 - A previous signed statement indicating no changes is proved to be untrue or
 - The overpayment of housing benefit and/or council tax benefit is £3000.00 or more or
 - There is evidence that the claimant has acted dishonestly or
 - The person concerned encouraged or assisted others to commit offences.
5. Where paragraphs 3.2 – 3.5 and paragraph 4.1 – 4.8 apply a prosecution would normally follow unless there is a good reason to offer an administrative penalty, a caution or to take no action
 6. Under paragraph.5 “good reasons” for offering an administrative penalty or a caution or for taking no action where a prosecution is indicated may include mitigating factors such as mental illness; physical incapacity; serious ill health of the offender or a close family member or friend; death of a close family member or friend; where a conviction could cause the offender or a member of the offenders family to lose their job and severe debt.
 7. Where an administrative penalty or caution is offered and the claimant declines to accept such a sanction or (in the case of an administrative penalty) agrees to accept the sanction but withdraws his or her agreement within the time allowed for doing so a prosecution will automatically follow unless there are overwhelming reasons why the public interest requires that a prosecution should not take place
 8. Whichever sanction is chosen the rules for recording and reporting, in force at that time, must be followed in full. Failure to comply with legislation may result in Government funding being withdrawn.

Last Reviewed: January 2011

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