

WEST DUNBARTONSHIRE COUNCIL

Report by the Director of Housing, Regeneration and Environmental Services

Social Justice Committee: 13 September 2006

Subject: Housing and Council Tax Benefit Fraud Strategy

1. Purpose

- 1.1** The purpose of this report is to seek approval for the revised Housing and Council Tax Benefit Fraud Strategy for West Dunbartonshire Council as detailed at Appendix 1.

2. Background

- 2.1** West Dunbartonshire Council has a duty to administer claims for housing and council tax benefit, including a responsibility to detect and prevent fraud. The Council also has a duty to ensure that there is maximum uptake of benefit and that the correct amount of benefit is paid to those who are entitled to it.
- 2.2** To comply with recommendations made by the Benefit Fraud Inspectorate (BFI) the Fraud Strategy should receive committee approval on an annual basis. The previous strategy was agreed at Social Justice Committee on 14 December 2005.

3. Main Issues

- 3.1** This strategy fully supports the Council's aim to provide best value services which are free from fraud and corruption.
- 3.2** The Council has in place a network of systems and procedures to assist in detecting and dealing with fraud when it occurs. It is committed to ensuring that these systems keep pace with any future developments in techniques to both prevent and detect fraudulent activity in housing and council tax benefit.
- 3.3** The Council will maintain a continuous review of all these systems and procedures through the Housing and Council Tax Benefit Investigation Team and the strategy will be regularly reviewed.
- 3.4** The strategy has been amended to include detailed guidance on when and which type of penalty should be considered and a statement has been incorporated advising that the policy is available in other formats and languages.

4. Personnel Issues

4.1 There are no personnel issues.

5. Financial Implications

5.1 Since April 2006, due to a change in subsidy allocations, individual rewards will no longer be payable for successful sanctions applied. The Council will still receive subsidy for weekly incorrect benefit stopped. Local Authorities will now receive a single annual amount of funding paid on a monthly basis to cover Housing Benefit/Council Tax Benefit administration, Verification Framework and Fraud & Error.

6. Conclusion

6.1 The past year has seen a major change in the working practices within the Benefit Investigation Team. As well as working alongside the BFI and ensuring compliance with their recommendations, the team are focused on an intelligence led approach to investigations with a view to conducting them to prosecutionable standard.

7. Recommendation

7.1 **The Committee is invited to approve the attached Housing and Council Tax Benefit Fraud Strategy for West Dunbartonshire Council.**

David McMillan

Director of Housing, Regeneration and Environmental Services

Date: 28 August 2006

Wards Affected:	All
Appendix:	Housing and Council Tax Benefit Fraud Strategy 2006/2007
Background Papers:	Social Security Administration (Fraud) Act 1997
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Housing & Council Tax Benefit Fraud Strategy 2006/2007

HOUSING/COUNCIL TAX BENEFIT FRAUD STRATEGY

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Housing and Council Tax Benefit Fraud Strategy

1. Introduction

- 1.1** West Dunbartonshire Council has an Anti Fraud and Corruption Strategy which sets down the framework to ensure our financial and organisational environments are properly controlled.
- 1.2** This document is in addition to that strategy and details responsibilities for the prevention, detection and investigation of housing and council tax benefit fraud.
- 1.3** Housing, Regeneration and Environmental Services Department Revenue Services Section is responsible for the administration of housing and council tax benefits. We have a duty to ensure efficient and effective processes for dealing with all benefit claims. We also have a duty to protect public funds.
- 1.4** Benefit fraud is the deliberate misrepresentation of circumstances, or the deliberate failure to notify a change of circumstances with the intent of gaining some advantage.
- 1.5** Revenue Services are committed to the prevention, detection, deterrence and investigation of all housing/council tax benefit fraud.
- 1.6** Benefit fraud can be committed by claimants, landlords (or agents), or employees of the Council.
- 1.7** We can fulfill our duty to protect public funds by being proactive in the following areas:
 - a) Preventing fraud occurring in the first place in having secure benefit gateways by establishing effective controls to stop fraud entering the benefit system. West Dunbartonshire Council has operated the Verification Framework, a government fraud preventative initiative, since April 2003. The Verification Framework means that all benefit claims are thoroughly checked using a robust validation process.
 - b) Detecting fraud in ongoing claims by monthly data matching of our full housing benefit caseload with information provided by other government departments.
 - c) Maximising the use of legislative powers of Accredited Counter Fraud Officers.
 - d) Applying sanctions when appropriate, such as administrative penalties, administrative cautions and referring relevant cases to the Procurator Fiscal for consideration of prosecution.

- e) Recovering overpayment of benefits and any administrative penalties.
- f) Providing annual staff awareness/training and Fraud Awareness Induction for all new employees.
- g) Liaising and participating in joint initiatives with external organisations such as the Department for Works and Pensions, other Local Authorities, Audit Scotland, the National Fraud Initiative (NFI) and Her Majesty's Revenues & Customs and Counter Fraud Investigation Service (DWP).

2. Legal Framework

2.1 We are bound by legislation to ensure payments of Housing and Council Tax Benefits are properly controlled. The following legislation applies:

(a) Local Government (Scotland) Act 1973

This Act requires the Authority to make arrangements for the proper administration of our financial affairs. This includes the prevention and detection of housing/council tax benefit fraud.

(b) Social Security (Administration) Act 1992

This Act is amended by the Social Security (Fraud) Acts 1997 and 2001, providing new powers to Local Authorities to assist in the prevention and detection of benefit fraud.

(c) Regulation of Investigatory Powers (Scotland) Act (2000) (RIPSA)

This Act provides a legal framework for authorising covert surveillance by public authorities and an independent inspection regime to monitor activities within the United Kingdom. The Act empowers the Council to obtain communication data relating to members of the public.

(d) Freedom of Information Act 2002

This Act makes provision for the disclosure of information held by public authorities or by persons providing services for them and to amend the Data Protection Act 1998 and the Public Records Act 1958; and for connected purposes.

(e) Data Protection Act 1998

This Act makes provision for the regulation of the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information.

(f) Human Rights Act 1998

This Act gives further effect to rights and freedoms guaranteed under the European Convention on Human Rights.

3. The Role of the Benefit Section

- 3.1** The Benefit Section is responsible for the investigation of suspected housing/council tax benefit fraud (HB/CTB). The Section is also responsible for internal control arrangements to ensure the integrity of the HB/CTB system and for prevention and detection measures to minimise the risk of fraud entering the benefit system. Responsibility also exists for detecting existing fraud cases already in payment and taking appropriate sanctions actions where fraud is proven.
- 3.2** All referrals of suspected benefit fraud will be considered by the investigation team within the Benefit Section and a decision made on which cases require investigation.
- 3.3** The Benefit Section has an investigation team consisting of 3 dedicated staff. This team is supported by a visiting officer and 2 clerical assistants who gather evidence required to assist in the investigation of any allegation made. This team also maintains a database of all referrals of suspected benefit fraud. The database details the results of investigations, any resulting fraudulent benefit overpayments, the types of fraud committed, and decisions on progression of sanctions taken against the individual(s).
- 3.4** The information contained in the database will be used for monthly and quarterly reporting to housing management and the Department of Works and Pensions (DWP) and the Benefit Fraud Inspectorate (BFI).
- 3.5** The investigation team will liaise with Benefit Administration Team to ensure their awareness of ongoing investigations and to discuss the adjudication of benefit.
- 3.6** On completion of an investigation, the investigation team will issue a full report of the investigation to the Team Leader (Benefits). He/she will decide based on all the evidence provided whether any overpayment is to be classified as fraudulent. It should be noted the investigation officers must remain independent, and as such, are not permitted to adjudicate on benefit claims.
- 3.7** If a decision is made by the Team Leader (Benefits) that there has been deliberate misrepresentation of circumstances in a case, or a deliberate failure to notify a change of circumstance, the Team Leader (Fraud) will consider the option of applying a sanction against the perpetrator(s) i.e:

(a) Administrative Penalty

This is a financial penalty as an alternative to a criminal prosecution.

(b) Administrative Caution

This is a meaningful deterrent when prosecution is not a first option and an administrative penalty is not appropriate.

(c) Referral to the Procurator Fiscal to consider prosecution

In Scotland the Procurator Fiscal is responsible for all criminal proceedings. He/she is entirely independent of all reporting agencies and the decision whether or not to institute proceedings is entirely a matter for him or her.

3.8 The final decision on applying a sanction will be made by the Section Head (Revenues) taking into consideration health, social factors or any mitigating circumstances.

3.9 A press statement will be issued when a case is successfully prosecuted and where it is considered that any resultant publicity will act as a deterrent to potential fraudulent claimants. In addition any new counter fraud activities undertaken by the Council will be publicised.

4. Reporting Suspicions of Benefit Fraud

4.1 Anyone, either a member of the public, an employee, an Elected Member of the Council, or a member of an external organisation, can report a suspicion of fraudulent activity concerning a housing or council tax benefit claim. All reports (unless anonymous) will be acknowledged by the investigation team.

(a) Reports received from members of the public/external organisations

Any member of the public or external organisation can report a suspicion of benefit fraud. Any report received must be immediately referred to the Investigation Team.

(b) Referrals Received from Council Employees

Every employee has a duty to ensure that public funds are safeguarded. All employees must therefore immediately report any suspicions of benefit fraud to the investigation team. Employees will also assist in investigations by making all relevant information available.

(c) Referrals Received from Elected Members of the Council

If an Elected Member suspects benefit fraud, he/she should report that suspicion to the investigation team.

- 4.2** Revenue Services are committed to utilising all possible government anti fraud initiatives. Reports/referrals of suspected fraud arising from these initiatives, such as the Verification Framework, the National Fraud Initiative (NFI), and targeted Interventions such as High Risk Reviews and Data Matches issued by the Housing Benefit Matching Service will be acknowledged and investigated as detailed in Section 3.

5. Benefit Fraud by an Employee or an Elected Member of the Council

- 5.1** If a member of staff or an Elected Member is involved in a fraud investigation, the matter will be dealt with in accordance with the Council's defalcation procedures and reported to the Manager of Internal Audit.

6. Prosecution Policy

- 6.1** The Council recognises that it is a criminal offence to knowingly make a false claim or to fail to report changes in circumstance to obtain benefit to which there is no entitlement. The Council will consider prosecution or applying an appropriate sanction against anyone who commits such an offence.
- 6.2** In reaching a decision on whether or not to prosecute or apply another sanction the Section Head (Revenues) will consider the following criteria:
- a) The value of the benefit obtained by fraud.
 - b) Whether there is sufficient evidence of false information.
 - c) Whether there is sufficient evidence of fraudulent intent.
 - d) The quality of evidence available to determine whether fraud was committed.
 - e) Whether a prosecution would be in the public interest.
 - f) Any previous offences against the Council.
 - g) Social factors including the age and health of the offender.
 - h) Literacy problems and language/learning difficulties.

6.3 Administrative Penalties

The Council has discretion under Section 15 of the Social Security Administration (Fraud) Act 1997 to administer a penalty, which is calculated at 30% of a recoverable benefit overpayment.

- a) Administration penalties are normally used in cases of overpayments between £400 and £1500 (this figure is a guideline only)
- b) There is a 28 day 'cooling off' period - where the claimant has the right to change his/her decision on acceptance.
- c) The 30% penalty is paid in the same way as the overpayment (example; recovery from ongoing benefit, arrangement through debtors)
- d) The penalty is not payable until the overpayment has been repaid
- e) The person will not incur a criminal record
- f) There is no right of appeal against the Local Authority's decision to offer an Administration Penalty.

The Administrative Penalty is recovered in addition to any repayments of the overpaid benefit and can only be offered if the case could be referred to the Procurator Fiscal for prosecution. If the claimant does not accept the offer of an administrative penalty then the case must be passed to the Procurator Fiscal for consideration.

6.4 Administrative Caution

An administrative caution is a meaningful deterrent for those persons who have made a fraudulent claim where criminal proceedings are not a first option and an administrative penalty is not appropriate. A caution may only be used where there is sufficient evidence for a prosecution and the claimant has admitted the offence during an interview under caution. The caution is an oral warning and there is no financial penalty involved.

An administrative caution will be considered as the preferred option to a prosecution or administrative penalty where:

- a) The overpayment is less than £400 (this figure is a guideline only)
- b) Where there is sufficient evidence to support a prosecution but the offence is considered minor.

- c) Where there is no previous history of convictions or sanctions for benefit fraud.
- d) Where the person has admitted the offence during an interview under caution.

Where the person(s) agrees to the caution, they acknowledge they have been cautioned and sign a document to show they admit the offence.

If the claimant does not accept the offer of an administrative caution then the case must be passed to the Procurator Fiscal for consideration.

6.5 Prosecution

This sanction is generally applied to such cases where the fraud is considered to be of a serious nature. West Dunbartonshire Council policy is to apply the prosecution sanction in cases where:

- a) The overpayment is greater than £1500 (this figure is a guideline only) and
- b) There is enough evidence to institute criminal proceedings and
- c) The investigation has proven criminal intent beyond reasonable doubt or
- d) There have been previous sanctions applied (Admin Penalty/Admin Caution)

7. Review and Timescales

- 7.1** West Dunbartonshire Council will review its Housing/Council Tax Benefit Fraud Strategy on an annual basis except where there are changes to legislation. In such cases changes to the Housing/Council Tax Benefit Fraud Strategy will be made within a reasonable time scale of the change coming into effect.