

## **EAST AYRSHIRE COUNCIL**

### **POLICY AND RESOURCES COMMITTEE –22 FEBRUARY 2001**

#### **AUTHORISED OFFICER POWERS UNDER THE FRAUD ACT AND SCHEDULE 6 OF THE CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000**

##### **Report by Director of Finance**

#### **1. PURPOSE OF REPORT**

- 1.1** To advise Members of the provision of Section 12 of the Social Security Administration (Fraud) Act 1997 and schedule 6 of the Child Support, Pensions and Social Security Act 2000 in relation to local authority Authorised Officer powers.
- 1.2** To seek approval to allow the Chief Executive to appoint local authority Authorised Officers within the Exchequer Services Section of the Finance Department.

#### **2. BACKGROUND**

- 2.1** Section 12 of the Fraud Act allows local authorities to appoint Authorised Officers who, under authority of the Secretary of State for Social Security, will have powers to enter business premises, make enquiries, interview anyone found on the premises and examine documents held on the premises that the authorised officer believes to be connected with a claim for Housing Benefit or Council Tax Benefit.
- 2.2** The Child Support, Pensions and Social Security Act 2000 came into force on 1 January 2001 and the powers identified in this act allow Authorised Officers to request lists of employees where they have reasonable grounds to do so; however the DSS strongly recommend that Authorised Officers receive training regarding the circumstances and procedures for this. Training will also ensure that staff use the powers in a way that complies with the Human Rights Act and the European Convention on Human Rights.
- 2.3** Under the powers granted in Section 12 of the Fraud Act, Authorised Officers can only be appointed by the Chief Executive of a Council.
- 2.4** Guidelines issued by the Department of Social Security state that the appointment must be for one year's duration, but can be reviewed indefinitely.

- 2.5** The Chief Executive may terminate an appointment of an Authorised Officer at any time.
- 2.6** Information relating to the appointment, renewal or termination of an Authorised Officer must be sent to the Secretary of State for Social Security.
- 2.7** In appointing an Authorised Officer, the Chief Executive must be satisfied that the person appointed is an employee of the authority and is a fit and proper person to exercise the powers granted.
- 2.8** If an authority appoints an Authorised Officer it must ensure that each authorised officer is in possession of a certificate of appointment that contains the following details;
- (a)** The full name of the authorised officer:
  - (b)** The date the appointment commences:
  - (c)** The date the appointment will cease:
  - (d)** Make reference to the fact that it is issued under section 110A of the Social Security Administration Act 1992 under Schedule 6 of the Child Support, Pensions and Social Security Act 2000:
  - (e)** The signature of the Chief Executive, along with his designation.
- 2.9** Whilst an authority is not obliged to limit the number of Authorised Officers it appoints, guidance from the Department of Social Security suggests that appointing officers consider the sensitive nature of the powers granted to the authorised officer. The DSS suggests that restraint should be used in appointing large number of Authorised Officers by, appointing only those officers required to undertake visits as part of their duties.

It is proposed that only designated fraud officers in the Benefits Section would be appointed.

- 2.10** Anyone who fails to comply with an Authorised Officer's reasonable request to enter a property, interview persons or examine documents may be guilty of an offence under Section 111 of the Social Security Administration Act 1992 and, as such, may be given a fine of up to £1000 and/or a maximum six month prison sentence.

### **3. FINANCIAL IMPLICATIONS**

- 3.1** There are no financial implications arising from these proposals.

#### 4. RECOMMENDATIONS

It is recommended that Members:

- 4.1 approve the Chief Executive, acting on behalf of the Secretary of State, to appoint Authorised Officers for East Ayrshire Council in line with Department of Social Security advice;
- 4.2 request the Director of Finance to provide regular updates detailing the use of these powers in an annual report to this Committee; and
- 4.3 otherwise note the contents of this report.

Alex McPhee  
**Director of Finance**

IM/JB  
6 February 2001

#### **LIST OF BACKGROUND PAPERS NIL**

Members wishing further information should contact Iain MacMillan, Head of Exchequer Services, Tel: (01563) 576443.

**AGENDA**