

EAST AYRSHIRE COUNCIL

POLICY AND RESOURCES COMMITTEE - 22 FEBRUARY 2001

FRAUD AND SECURITY STRATEGY

Report By Director of Finance

1. PURPOSE OF REPORT

- 1.1** To seek approval of a Fraud and Security Strategy in respect of Housing and Council Tax Benefits.

2. INTRODUCTION

- 2.1** In working towards Best Value East Ayrshire Council is required to develop and rigorously implement a robust written fraud and security strategy to comply with new Statutory Performance indicator 3 in Benefits Administration (Housing Benefit and Council Tax Benefit).
- 2.2** Compliance with the indicator requires that a written fraud and security strategy for combating fraud and error is communicated regularly to all staff, the whole of which is demonstrably acted upon by management and staff on a continuous basis.

3 BACKGROUND

- 3.1** Housing and Council Tax Benefits are administered by a specialist team within the Finance Department at 2 the Cross, Kilmarnock. The Council has a duty to administer claims for Housing Benefit and Council Tax Benefit, including a responsibility to detect fraud. However, to comply with subsidy arrangements as prescribed by the Department of Social Security (DSS), a case identified as being a fraudulent benefit claim must feature the intervention of a designated fraud officer (DFO). Consequently, a fraud section has been in place since 1996. This team is currently based at the Council Offices, Lugar.
- 3.2** The DFO receives referrals from benefits staff, other Council officials, the Benefits Agency (BA), the DSS and anonymous sources. In the course of carrying out investigations it is inevitable that the DFO will identify cases which require to be prosecuted. Guidance on prosecution will be included in a detailed policy and procedures manual.

- 3.3 The Council strives to participate in a variety of counter fraud initiatives including the DSS's Housing Benefit Matching Service (HBMS). This is an initiative which identifies discrepancies between Social Security and Local Authority records.
- 3.4 The Council has a Service Level Agreement (SLA) with both the Benefit Agency (BA) and the Benefit Investigation Service (BIS); a close working relationship has developed and compliance with the SLA's are monitored. In addition joint working initiatives are undertaken on a regular basis with these agencies.
- 3.5 The Social Security Administration (Fraud) Act 1997 contains legislation which confers additional powers on local authorities in pursuing fraud. The strategy aims to make full use of these powers wherever appropriate.

4. **STRATEGY**

The Council is committed to the development of an anti-fraud culture amongst customers and staff involved in the Benefits system and is committed to preventing abuse of the Housing Benefit and Council Tax Benefit schemes.

The Council's key objectives in tackling Benefit Fraud are: -

4.1 **Prevention**

"To get it right" and to "keep it right" at the processing stage, by continuously striving to improve verification standards whilst promoting and developing an anti fraud culture amongst staff and the general public. In doing this the Council should make a clear statement of its support for the prevention, deterrence, detection, investigation and prosecution where appropriate of those found to be involved in fraudulent claims.

4.2 **Deterrence**

To deter fraud in the first instance: amongst individuals and organisations who might consider submitting fraudulent benefit claims.

4.3 **Detection**

To detect fraud as early as possible in order to limit losses to the public purse.

4.4 **Investigation**

To investigate potential fraud efficiently and fairly taking into account all of the circumstances of the individual concerned.

4.5 **Prosecution**

To refer offenders to the procurator fiscal where appropriate in line with the Council's Prosecution Policy.

4.6 **Operation**

To maintain a detailed policy and procedures manual built around the strategic framework approved by Members.

4.7 **Communication**

These principles form the framework of the Council's Draft Benefit Fraud Policy and Procedures document attached as an Appendix to this report. If approved, the contents of this document together with more detailed operational guidance will be communicated to all benefits staff via staff training sessions. Staff will also have access to the policy and procedures manual at all times.

5. **FINANCIAL IMPLICATIONS**

- 5.1 There are no additional financial implications from implementing the recommendations of this report.

6. **LEGAL IMPLICATIONS**

- 6.1 Procedure is in implementation of provisions introduced by the Social Security Administration (Fraud) Act 1997.

7. **RECOMMENDATIONS**

It is recommended that Members: -

- 7.1 approve the Benefits Fraud and Security Strategy outlined above;
- 7.2 approve the draft Benefits Fraud Policy and Procedures document attached;
- 7.3 approve the draft prosecution policy; and
- 7.4 otherwise note the contents of this report.

Alex McPhee
Director of Finance

JC/AMcP/JB
 6 February 2001

NIL

Members wishing further information should contact Iain MacMillan, Head of Exchequer Services, Tel: (01563) 576451.



East Ayrshire
COUNCIL

Housing and Council Tax Benefit Fraud

Policy and Procedures

Statement of Intent

East Ayrshire Council is committed to the development of an anti fraud culture amongst customers and staff and is committed to preventing abuse of the Housing Benefit and Council Tax Benefit schemes.

The council will develop and implement measures to prevent, deter, detect, investigate and

1. POLICY

- 1.1 In developing a written fraud security strategy it is important to consider what actually constitutes an offence in the context of Housing Benefit and Council Tax Benefit Administration. The relevant sections of the Social Security Administration Act (1992) as amended state: -

“111A (1) *If a person knowingly -*

(a) makes false statement or representation;

(b) produces or furnishes, or causes or allows to be produced or furnished, any document or information which is false in a material particular;

(c) fails to notify a change of circumstances which regulations under this Act require him to notify; or

(d) causes or allows another person to fail to notify a change of circumstances which such regulations require the other person to notify;

with a view to obtaining any benefit or other payment or advantage under the Social Security legislation (whether for himself or for some other person), he shall be guilty of an offence.

111A (2) *In this section, "the Social Security legislation" means the Acts to which section 110 above applies and the Jobseeker's Act 1995.*

111A (3) *A person guilty of an offence under this section shall be liable -*

(a) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years, or to a fine, or to both.

112 (1) *If a person for the purpose of obtaining any benefit or other payment under the legislation to which section 110 above applies whether for himself or some other person, or for any other purpose connected with that legislation -*

(a) makes a statement or representation which he knows to be false; or

(b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

He shall be guilty of an offence.

112 (1a) *If a person without reasonable excuse -*

(a) fails to notify a of circumstances which regulations under this act require him to notify; or

(b) knowingly causes or knowingly allows another person to fail to notify a change of circumstances which regulations require the other person to notify,

And he knows that he, or the other person, is required to notify the change of circumstances, he shall be guilty of an offence.

112 (2) *A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or imprisonment for a term not exceeding 3 months, or to both."*

- 1.2** The Council will consider and implement all appropriate measures to minimise the opportunity for claimants to defraud the benefit system including a commitment to increase fraud awareness amongst staff. Fraud awareness training will be regularly undertaken and all benefit staff will hold a hard copy of the written fraud and security strategy which will be presented to them at, either, recruitment induction or at an appropriate training session, fraud awareness will also be a standing agenda item at all benefits staff team meetings.
- 1.3** Where benefit fraud is suspected, the Council will investigate all cases thoroughly and effectively and maintain comprehensive and accurate records of the investigations.
- 1.4** The Council will engage in proactive fraud detection, within the constraints of legislation including the recent introduction of the Human Rights Act and liaise with the Benefits Agency (BA) and Benefit Investigation Service (BIS) to undertake joint initiatives.
- 1.5** At all times the Council will act with discretion and will not seek to obtain information other than that directly required to establish the offence, adhering to the Data Protection Act 1998.
- 1.6** In every case where fraud is established, consideration will be given to referring the matter to the Procurator Fiscal to initiate prosecution proceedings.
- 1.7** Effective liaison arrangements with Strathclyde Police will be put in place to develop effective liaison to assist with enquiries and investigations.

- 1.8** Preliminary work is being undertaken to extend the National Anti-Fraud Network (NAFN) into Scotland. NAFN is a network established to "fight fraud by exchanging information" and has been highly successful in counter fraud work in England and Wales. The Director of Finance will evaluate the benefits of membership in deciding whether to join this network.

2. FRAUD REFERRALS

- 2.1** Fraud is identified from various sources, the most common being from:

- (a) the general public.
- (b) the Housing Benefit Matching Service.
- (c) discrepancies in information provided on benefit claim forms.
- (d) information disclosed whilst carrying out other investigations.
- (e) The Benefit Agency
- (f) The Rent Registration Service
- (g) The Benefit Investigation Service

Any information received will be passed to the fraud team together with all information already held on file.

- 2.2** The quality of information is important at both the referral and the investigating stages and field officers will ensure that all information is recorded accurately and comprehensively.

- 2.3** During an investigation of a referral:

- (a) all work and interviews will be comprehensively recorded on the file
- (b) A statement will be taken from each individual - this statement will require to be signed by the individual, the investigating officer and a witness (normally a second field officer).
- (c) All files whether found to involve fraud or not, will be signed-off by the Fraud and Overpayment Officer.

- 2.4** Every referral will be acknowledged in writing by the field officer leading the case.

3. HOUSING BENEFIT MATCHING SERVICE

- 3.1** The Council participates in the Housing Benefit Matching Service (HBMS). This is a centrally controlled data matching service run by the Department of Social Security (DSS).
- 3.2** Every 13 weeks data is extracted from the live Benefit system and sent to HBMS, where it is matched against a variety of records, mostly extracted from DSS systems. Mismatches are identified and selected cases are referred back to the Council for investigation. In some cases these highlight an error in the data or a genuine error on the claimants part, but in others, they highlight an attempt to obtain benefit fraudulently.
- 3.3** Administrative procedures relating to these referrals are prescribed by HBMS
- 3.4** Investigations arising from mismatched information will be carried out in accordance with normal procedures and practices.

4. INVESTIGATION

- 4.1** Each field officer will thoroughly investigate the reasons for any referral and establish whether a fraud has been committed.
- 4.2** Where the field officer rejects a referral it will be returned to its source with a brief explanation for not pursuing the case.
- 4.3** On accepting a referral, appropriate checks will be done to confirm all details. The claimant will then be interviewed at the property if possible. At the interview details held will be checked to allow the claimant to confirm their circumstances and the field officer will question the claimant about the allegation. A full statement will be taken. The circumstances of the case will then be considered and a decision on whether further investigation is required will be taken.
- 4.4** Depending on the ongoing investigation, the field officer may decide that a case is serious enough to interview the claimant under caution. This may occur, during the course of an interview at the claimant's home or at an appointed time at the council offices. The claimant will have the caution explained to them prior to the interview taking place.
- 4.5** If a case involves the payment of another DSS benefit, the field officer will liaise with BIS to establish whether the case is already under investigation. If a case is already under investigation, the field officer will advise the BA of the council's interest and discuss the potential for liaison and effective joint working, in the ongoing investigation.
- 4.6** The Service Level Agreement between the Council and BIS details which cases should be investigated by which organisation.

- 4.7 The field officer will ensure that accurate records are maintained. If a referral for prosecution is pending, Benefit staff will not engage in discussion with the claimant but will refer the claimant to the field officer.
- 4.8 A case will be closed if fraud is not established or a decision taken that referral for prosecution is not appropriate. A report detailing the reasons will be passed to the processing teams.
- 4.9 Each file will be checked and initialled by the Fraud and Overpayments Officer maintaining a full quality check.

5. FRAUD ACT

- 5.1 The Social Security Administration (Fraud) Act 1997 conferred additional powers on local authorities to enable them to pursue fraud more effectively.
- 5.2 The Fraud Act permits the Inland Revenue to disclose information to the DSS to facilitate Fraud and accuracy work. Local Authorities, via the DSS, can also request this information. Prescribed purposes for using this information and procedures for obtaining it are outlined in DSS circular F14/99.
- 5.3 A network of Remote Access Terminals linking with the DSS computer systems has been rolled out to local authorities and these may now be operated by LA staff. The Council currently has access to one of these terminals.
- 5.4 Authorised Officers powers allow the Authorised Officers (appointed by the Chief Executive) to inspect any trade or business premises where a claimant is suspected of being employed and have access to any records related to that business.
- 5.5 Where there has been an overpayment of benefit attributable to fraud and there are grounds for prosecuting the claimant, the council may offer the claimant an administration penalty. This is equal to 30% of the amount of the benefit overpayment. If the claimant accepts the 30% administration penalty there is a 28 day "cool off" period. Should the administration penalty be refused the case would then require to be referred for prosecution.
- 5.6 Local Authorities now have the power to obtain information from landlords regarding their tenants. A letter was issued to all landlords in May 2000, advising them:
 - (a) of a new offence of "dishonest representations for obtaining benefit" for providing false documentation, making false statements or failing to notify changes under the Social Security legislation. A person guilty of such an offence is liable on summary conviction to imprisonment for a term of up to six months or a fine, or both.

(b) that they are deemed to accept responsibility for keeping the Council informed of any change in circumstances or information which may affect entitlement to benefit.

(c) that the Council intend to recover overpayments of housing benefit from another tenants' benefit entitlement (where payments are made directly to the landlord), if the landlord fails to repay funds and/or fails to notify the Council when tenants leave their property.

5.7 Since September 1999, claimants applying for Housing and Council Tax Benefit are required by section 19 of the Fraud Act to provide a valid and verifiable National Insurance number. This has been fully implemented using DSS guidelines.

5.8 The Fraud Act encourages Local Authorities to use specially designed envelopes to access information from the Royal Mail about mail redirection. This fraud detection initiative has been implemented with effect from January 2001.

5.9 A Draft Prosecution Policy is attached at Annex A.

6. EMPLOYEE FRAUD

6.1 Reports of apparent irregularities with regard to claims for benefits may be made about individuals employed by the Council. Where this relates to the employee's actions as a private citizen the case will be treated in exactly the same way as it would be for any other claimant.

6.2 Where a fraud is perpetrated as a result of employment by the Council, the matter will be dealt with in accordance with the Council's defalcation procedures and reported to the Chief Auditor. In such cases the Chief Executive will decide on whether the case should be passed to the police.

6.3 A declaration of independence will be signed by all members of staff within the Benefits Service. This requires employees to declare an interest in any claim received from friends or relations or in relation to any property in which they have an interest.

EAST AYRSHIRE COUNCIL

DRAFT PROSECUTION POLICY

The Council is committed to preventing Benefits fraud and corruption and has approved a written security strategy which is communicated to all staff involved in Housing and Council Tax benefit.

Systems and procedures in place will be reviewed and revised as required in the light of experience and changes in legislation.

This procedure does not supersede other internal disciplinary codes implemented by the Council.

1 POLICY

The Council's policy on fraud is to:

- Prevent it arising where possible
- Deter individuals and organisations from attempting it;
- Detect it quickly;
- Investigate it efficiently and fairly; and
- Refer offenders for prosecution when appropriate.

2. PROSECUTION

Where the Benefits Service Manager considers that there are grounds for prosecution, taking into account the sufficiency and appropriateness of evidence, the Benefits Service Manager will take the following factors into account in determining whether the alternative of a penalty under Section 115A of the Social Security Administration (Fraud) Act 1997 should be offered:

- (a)** The amount of benefit fraudulently obtained.
- (b)** whether the claimant has previously been involved in a fraudulent claim;
- (c)** whether anyone else was involved in the fraud (collusive landlord or employer for example);
- (d)** whether the claimant's personal circumstances place them in a vulnerable position, for example significant mental or physical ill health.

2. EMPLOYEE FRAUD

All cases of fraud perpetrated by an employee in their status as a private individual will be considered for prosecution using the same criteria as above. Cases where the fraud arises from their status as an employee will however be reported to the Chief Internal Auditor and dealt with by the Chief Executive in line with the Council's Defalcation Procedures.

3. DECISIONS

In all cases the reasons for the decision on whether or not to refer the case for prosecution will be recorded.

AGENDA