

Report

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Report to:	Housing and Technical Resources Committee
Date of Meeting:	29 September 2010
Report by:	Executive Director (Housing and Technical Resources)

Subject:	Housing/Council Tax Benefit Fraud Strategy
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ advise of the outcome of the review of the Housing/council Tax Benefit Fraud Strategy
- ◆ request approval to implement the new strategy

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the new Housing/Council Tax Benefit Fraud Strategy be endorsed and implemented from 1 December 2010.
- (2) that the Housing/Council Tax Benefit Fraud Strategy be referred to the Executive Committee for formal approval.

3. Background

- 3.1. As a Council we are bound by Government legislation to ensure payments of Housing and Council Tax Benefits are properly controlled and, therefore, have a duty to protect public funds from abuse.
- 3.2. The current Strategy and associated procedures have been in operation with great success, for more than 6 years.
- 3.3. The Council's Benefit Fraud Investigation Team consists of 6 Investigation Officers and is located within Housing and Technical Resources Support Services and operates from Brandon Gate in Hamilton.
- 3.4. The team has been very successful in investigating benefit fraud identifying almost £300,000 of fraudulent claims last year and applying 80 sanctions. The sanctions process includes referring the most serious cases for prosecution through the Sheriff Court resulting in custodial sentences being handed down in some instances.
- 3.5. The prevention and detection of benefit fraud has always been a priority for successive Governments and in recent years barriers to allow co-operation between various public and private organisations have been removed making detection easier.
- 3.6. The new Strategy is attached to this report and, subject to approval, will be posted on the Council's Intranet site.

4. Key aspects of the new strategy

4.1. The introduction to the new strategy highlights the meaning of benefit fraud:-

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.

It also outlines the Council's commitment to preventing and detecting fraud and details the legislative requirements which we are required to adhere to.

4.2. The Strategy details the main areas where the Council will be pro-active in protecting public funds from benefit fraud, and they include:-

- preventing fraud occurring in the first place by having a secure benefit validation process in relation to a claimant's identity
- detecting fraud in ongoing claims by monthly data matching including our full Housing Benefit caseload with information provided by other Government departments
- maximising the use of legislative powers available to our staff
- applying sanctions when appropriate, such as Administrative Penalties, Administrative Cautions and referring relevant cases to the Procurator Fiscal for consideration of prosecution
- recovering overpayment of benefits and penalties
- increasing staff awareness/training and undertaking Fraud Awareness Induction for all new employees
- working and sharing information with external organisations such as the Department for Works and Pensions, other Local Authorities, the Inland Revenue, Audit Scotland, the National Fraud Initiative (NFI) and Her Majesty's Revenues and Customs

4.3. The Strategy also outlines the criteria that the Council will use to decide the appropriate level of sanction to use, including prosecution, where fraud is determined. The criteria includes:-

- the value of the benefit obtained by fraud
- whether there is sufficient evidence of false information
- whether there is sufficient evidence of fraudulent intent
- the quality of evidence available to determine whether fraud was committed
- whether a prosecution would be in the public interest because of its deterrent effect
- any previous offences against the Council
- social factors including the age and disability of the offender
- literacy problems including illiteracy, dyslexia, language/learning difficulties

- 4.4. While all cases will be considered for prosecution, the Council is aware of the discretion available under Section 15 of the Social Security Administration (Fraud) Act 1997. This provides the Council with the authority to administer a caution or even a financial penalty, which is calculated at 30% of the value of the recoverable benefit overpayment, and the Council will consider such options on a case by case basis.
- 4.5. The Strategy outlines the various avenues open to members of the public to report suspicions of Benefit Fraud and reinforces the Council's commitment to utilise all possible Government anti fraud initiatives, including the National Fraud Initiative. This initiative is co-ordinated by Audit Scotland and allows councils to compare information on a benefit claim against information, such as payroll and benefit details, held by other organisations.
- 4.6. The role of Housing and Technical Resources Benefit Fraud Investigation Team includes:-
- assessing all referrals of suspected benefit fraud to determine which cases require investigation and investigating all appropriate cases
 - maintaining a database listing all referrals of suspected benefit fraud, holding details of the results of investigations, the value of fraudulent benefit overpayments, the types of fraud committed, and the progress of individual cases
 - providing all required performance and management information for internal and external use
 - preparing a full report of each completed investigation for the adjudication officer to make a decision on the outcome of the investigation. The adjudication officer will decide, based on all the evidence provided, whether any overpayment has arisen, and whether any such overpayment should be classified as fraudulent
 - ensuring the investigation and adjudication of cases are carried out independently

5. Next Steps

- 5.1. If the Strategy is approved we will provide regular updates on our performance in relation to fraud detection as part of our standard Committee performance update reports and will review the Strategy every three years except where there are changes to legislation.

6. Employee Implications

- 6.1. Prior to implementation of the new Strategy appropriate staff will be given training on all aspects of the strategy and associated procedures.

7. Financial Implications

- 7.1. None.

8. Other Implications

- 8.1. Failure to have an effective Fraud Investigation Strategy in place increases the risk of fraudulent claims going undetected for longer periods.
- 8.2. There are no implications for sustainability or risk in terms of the information contained in this report.

9. Equalities Impact Assessment and Consultation Arrangements

- 9.1. An impact assessment, in terms of the proposals contained within this report, has been carried out to ensure that the strategy is inclusive and does not unfairly disadvantage any groups within the community.
- 9.2. Consultation on the strategy was undertaken with a wide range of interested parties including the Citizens Advice Bureau, Strathclyde Police, Internal Audit, Audit Scotland, elected members and the Department for Work and Pensions. Comments and suggestions from consultees have been incorporated into the revised Strategy.

Lindsay Freeland
Executive Director (Housing and Technical Resources)

29 August 2010

Link(s) to Council Objectives and Values

- ◆ Accountable, effective and efficient

Previous References

- ◆ None

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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**SOUTH LANARKSHIRE COUNCIL
HOUSING AND TECHNICAL RESOURCES**

HOUSING/COUNCIL TAX BENEFIT FRAUD STRATEGY

- 1. Introduction**
- 2. Legal Framework**
- 3. The Role of Area and Support Services**
- 4. Reporting Suspicions of Benefit Fraud**
- 5. Benefit Fraud by an Employee or Member of the Council**
- 6. Prosecution Policy**
- 7. Review and Timescales**

SOUTH LANARKSHIRE COUNCIL

Housing and Council Tax Benefit Fraud Strategy

1. INTRODUCTION

- 1.1 South Lanarkshire Council has a Corporate Anti Fraud and Corruption Strategy which sets down the framework to ensure our financial working 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 South Lanarkshire Council's Housing and Technical Resources are responsible for the administration of Housing and Council Tax Benefits. We have a duty to ensure efficient and effective processes by which all benefit claims will be dealt. We also have a duty to protect public funds against abuse. Neglect of this task can discredit the integrity of the Housing and Council Tax Benefit schemes and work against the interest of genuine claimants.
- 1.4 Housing and Technical Resources are committed to the prevention, detection, deterrence and investigation of all Housing/Council Tax Benefit fraud.
- 1.5 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.
- 1.6 Benefit fraud can be committed by claimants, landlords (or agents), or employees of the Council.
- 1.7 We will discharge our duty to protect public funds by being proactive in the following areas:
 - i) Preventing fraud occurring in the first place by having secure benefit gateways, thereby establishing effective controls to stop fraud entering the benefit system. South Lanarkshire Council have operated the Verification Framework, a Government fraud preventative initiative, since it's inception in 1999. The Verification Framework ensures that all Benefit claims are thoroughly vetted using a robust validation process.
 - ii) Detecting fraud in ongoing claims by monthly data matching of our full Housing Benefit caseload with information provided by other Government departments.
 - iii) Maximising the use of legislative powers bestowed on Accredited Counter Fraud Officers.
 - iv) Applying sanctions when appropriate, such as Administrative Penalties, Administrative Cautions and referring relevant cases to the Procurator Fiscal for consideration of prosecution.
 - v) Recovering overpayment of benefits and penalties and monitoring recovery of these.
 - vi) Annual staff awareness/training and Fraud Awareness Induction for all new employees

- vii) Liaison and joint initiatives with external organisations such as the Department for Works and Pensions, other local authorities, the Inland Revenue, the National Fraud Initiative (NFI) and Her Majesty's Revenues and Customs.

2. LEGAL FRAMEWORK

2.1 We are also bound by Government legislative requirements to ensure payments of Housing and Council Tax Benefits are properly controlled.

- i) **Local Government (Scotland) Act 1973** – to make arrangements for the proper administration of our financial affairs. This includes the prevention and detection of Housing/Council Tax Benefit Fraud.
- ii) **Social Security (Administration) Act 1992**, which incorporates the Social Security (Fraud) Acts 1997 and 2001, providing new powers to Local Authorities to assist in the prevention and detection of benefit fraud.
- iii) **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 also incorporates RIPA 2000 which empowers the Council to obtain Communication Data relating to members of the public. This includes obtaining personal information such as itemised telephone records and subscriber details.
- iv) **Freedom of Information Act 2000**, 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.
- v) **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.
- vi) **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 HOUSING AND TECHNICAL RESOURCES

3.1 Support Services within Housing and Technical Resources is responsible for the investigation into allegations of suspected Housing/Council Tax Benefit fraud. The service 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, 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 Support Services and a decision made on which cases require investigation.

3.3 Support Services has an Investigation Team consisting of 6 dedicated and fully trained Investigation Officers. This team is supported by an Intelligence Gathering Officer who gathers evidence required to assist in the investigation of any allegations made.

- 3.4 The Investigation Team maintains a database listing all referrals of suspected benefit fraud. This 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).
- 3.5 The information contained in the database will be used for monthly and quarterly reporting to Support Services management, Internal Audit and the Department for Works and Pensions (DWP).
- 3.6 The Investigation Team will liaise with the other teams/sections within Benefits and Revenue Control to ensure their awareness of ongoing investigations and to discuss any issues.
- 3.7 The adjudication of benefit will be the responsibility of the Appeals and Adjudication Officers, a team of three officers within the centralised Policy and Training Team within Support Services. The Investigation Team will liaise with the Appeals and Adjudication Officers to discuss any issues arising from the adjudication of benefit claims as a result of a fraud investigation.
- 3.8 On completion of an investigation, the Investigation Team will issue a full report on the case to the appropriate Adjudication Officer. The Adjudication Officer will decide, based on all the evidence provided, whether any overpayment has arisen, and whether any such overpayment should be classified as fraudulent.
- 3.9 It should be noted the Investigation Officers must remain independent, and as such, are not permitted to adjudicate on benefit claims.
- 3.10 If a decision is made by the Adjudication Officer that there has been deliberate misrepresentation of circumstances in a case, or a deliberate failure to notify a change of circumstance, a fraudulent overpayment should be created. Following this, the Team Leader (Investigation Team) and/or the Benefits and Revenue Support Manager (Policy) will consider the option of applying a sanction against the perpetrator(s) i.e. an Administrative Penalty, an Administrative Caution, or a referral to the Procurator Fiscal to consider prosecution. (Further details on sanctions can be obtained in para 6).
- 3.11 The final decision on applying a sanction will be made by the Benefits and Revenue Support Manager (Policy) taking into consideration health, social factors or any mitigating circumstances.
- 3.12 South Lanarkshire Council will always seek to publicise suitable cases as a deterrent to fraudsters.

4. REPORTING SUSPICIONS OF BENEFIT FRAUD

- 4.1 Anyone, either a member of the public, an employee, a 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.

- i) Reports Received from Members of the Public/External Organisations
Members of the public or external organisations can report suspicions of benefit fraud by a number of methods - via South Lanarkshire Council's dedicated 24 hour Fraud Hotline (freephone 0800 328 9999), on-line via the website; by letter, email (benefitfraud@southlanarkshire.gov.uk), or by speaking to any Council Employee.

Any report received from these parties to a Council employee must be immediately referred to the Investigation Team, 3rd Floor, Brandon Gate, Hamilton on Form F3 (attached in appendix1).

- ii) 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 by using referral form F3 (shown in appendix 1). This form is also found on-line via South Lanarkshire Council's internal Intranet system.
Employees will assist in investigations by making all relevant information available.

- iii) Referrals Received from Members of the Council
If an elected member suspects benefit fraud, he/she must report that suspicion to the Investigation Team on referral form F3 (shown in appendix1). Form F3 can also be found on-line via South Lanarkshire Council's internal Intranet system.

4.2 Housing and Technical Resources 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/Data Matches will be acknowledged and investigated as detailed in paragraphs 3.2 – 3.10.

4.3 The Resource will continue to investigate NFI data matches promptly, prioritising those cases where the risk of potential fraud is high, and will continuously update the secure website with outcomes of investigation.

5. BENEFIT FRAUD BY AN EMPLOYEE OR A MEMBER OF THE COUNCIL

5.1 If a member of staff is involved in a fraud investigation, the Benefits and Revenue Support Manager (Policy) must immediately notify the Risk and Audit Section. A decision will then be made on whether Internal Audit staff will participate in the investigation.

5.2 If, following investigation, it is established that a fraudulent claim to benefit has been made by an employee, the Benefits and Revenue Support Manager (Policy) must notify Risk and Audit Manager or Audit Adviser. The Risk and Audit Manager or Audit Adviser will in turn notify the Depute Chief Executive and Executive Director of Finance and Information Technology Resources, and the appropriate Head of Service. The appropriate Head of Service will notify his/her Executive Director.

- 5.3 If an elected member of the Council is involved in a fraud investigation, the Benefits and Revenue Support Manager (Policy) must immediately refer the case to the Head of Support Services (Housing and Technical Resources) who in turn will report the matter to the Risk and Audit Manager or Audit Adviser. The investigation will then be conducted jointly by nominated staff within the Investigation Team and Internal Audit.

The Risk and Audit Section will inform the Chief Executive of the matter.

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 the application of 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 Benefits and Revenue Support Manager (Policy) will consider the following criteria:-
- i) the value of the benefit obtained by fraud
 - ii) whether there is sufficient evidence of false information
 - iii) whether there is sufficient evidence of fraudulent intent
 - iv) the quality of evidence available to determine whether fraud was committed
 - v) whether a prosecution would be in the public interest because of its deterrent effect
 - vi) any previous offences against the Council
 - vii) social factors including the age and disability of the offender
 - viii) literacy problems including illiteracy, dyslexia, language/learning difficulties

6.3 Administrative Penalties

While all cases will be considered for prosecution the Council is aware of the discretion available under Section 15 of the Social Security Administration (Fraud) Act 1997 which provides the Council with the authority to administer a penalty, which is calculated at 30% of a recoverable benefit overpayment.

An administrative penalty is recovered in addition to any repayments of the overpaid benefit and can only be offered if the case is suitable for prosecution.

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

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:-

- i) where there is sufficient evidence to support a prosecution but the offence is considered minor

- ii) where there is no previous history of convictions or sanctions for benefit fraud
- iii) where the person has admitted the offence during an interview under caution
- iv) where the person agrees to the caution, they acknowledge they have been cautioned and sign a document to show they admit the offence

6.5 Prosecution

The Benefits and Revenue Support Manager (Policy) will make the final decision whether prosecution is the appropriate sanction, taking the aforementioned criteria into consideration.

A thorough examination of the case and evidence is undertaken with strict impartiality to ensure:-

- i) all alleged false statements/documents are complete and have a signature; and
- ii) all evidence, the investigation, the Interview Under Caution and supporting documentary evidence have been obtained/conducted legally and fairly

Only after thorough scrutiny will the case be signed off for submission to the Procurator Fiscal. As with all criminal cases the burden of proof falls upon the prosecution to prove beyond a reasonable doubt. In Scotland the Procurator Fiscal is solely responsible for prosecution of any crime.

6.6 Performance Monitoring and Reporting

Performance in relation to the volume of new referrals, volume of ongoing investigations, volume and breakdown of sanctions applied, and the volume and value of overpayments created, is monitored on a weekly basis by the Benefits and Revenue Support Manager (Policy), and reported on a monthly basis to the Head of Support Services, Benefits and Revenue Manager and Internal Audit.

7. REVIEW AND TIMESCALES

South Lanarkshire Council will review its Housing/Council Tax Benefit Fraud Strategy every three years 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.

Housing and Technical Resources
Executive Director **Lindsay Freeland**
Support Services

REPORT OF SUSPECTED FRAUD F3

NAME _____ ADDRESS _____ _____ _____ DOB _____ _____ NI Number _____ ANY REASON TO SUSPECT PV? _____ _____ _____	Fraud use only:- Case Number _____ Date entered on Fraud _____ Score Category _____ Outcome: _____ File O/LD N FA Reason _____ _____ Investigator _____
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DESCRIPTION OF CLAIMANT/SUSPECTED PERSON:

NAME	RELATIONSHIP TO CLAIMANT	HEIGHT	BUILD (slim/stocky etc)	HAIR (colour, length, style etc)	DIST FEATURES (moustache, glasses)
CLAIMANT					
OTHER					

TYPE OF SUSPECTED FRAUD	_____		
DATE OF SUSPICION	_____	SOURCE OF SUSPICION	_____
REASON SUSPICION AROUSED	_____		
DETAILS & REMARKS (e.g. workplace, route taken to work, method of transport, what time do they)			
VEHICLE DETAILS	_____		
MAKE & COLOUR	_____	REG NUMBER	_____
COMPANY NAME/LOGO/DIST MARKS	_____		

NAME	SECTION	DATE
DOCUMENTS ENCLOSED (i.e. application form, letter)		