

To: Audit and Governance Committee

Date: 23rd September 2010

Item No:

Title of Report:

Key operational documents relating to the prevention and detection of Benefit Fraud.

Summary and Recommendations

Purpose of report:

1. To report to Members the key operational documents relating to the prevention and detection of benefit fraud as approved by City Executive Board on 01/09/10

Key Decision: No

Board member: Councillor Bob Price

Scrutiny Responsibility: Value & Performance

Ward(s) affected: None

Report Approved by: Lindsay Cane, Law and Governance

Policy Framework: Financial stability

Recommendation(s): Members are asked to note the report.

1. To report to Members the key operational documents relating to the prevention and detection of benefit fraud as approved by Chief Executive Board on 01/09/10

The Council is committed to eliminating all forms of fraud, corruption and bribery and to protecting public funds. Minimising losses to fraud is an essential part of ensuring that all of the Council's resources are used for the purpose for which they are intended. The key operational documents relating to the prevention and detection of benefit fraud have been reviewed and approved by Chief Executive Board on 01/09/10 and adopted as working practice.

The Fraud Strategy

The purpose of the Fraud Strategy is to minimise the risk of fraud and error and to help secure the Welfare Benefit System and the Benefit Service against fraud. It forms an integral part of the fraud awareness training given to all new staff in the Customer Services department. The Policy has been reviewed and updated;

- Embedding the responsibilities of officers in regard to the Council's Avoiding Fraud and Corruption Policy, the Whistle blowing Policy, Money Laundering Policy and the ICT Security Policy
- The Officer declaration in regard to any personal interest of a claim or a property and the responsibility to report any change has been incorporated in the body of the Strategy.
- The inclusion of the responsibility to inform HMRC of any information held which may alter or affect the entitlement to Tax Credits or an individual's immigration status.
- Officers' responsibilities are incorporated in respect of the security of and the working procedures, as stipulated by the Department for Work and Pension, in regard to the use of the Customer Information System.

See Attached as Appendix 1

The Welfare Benefit Prosecution and Sanction Policy

The Benefit Service and Investigation Team take all reasonable steps to prevent fraud and error entering the system. There is a dedicated team responsible for identifying, investigating and prosecuting benefit fraud. The Welfare Benefit Prosecution and Sanction Policy is designed to deliver a uniform approach to prosecution and sanction decisions.

The Welfare Benefit Prosecution and Sanction Policy was last approved by members in 2009. The Policy has now been updated to include the new 'One Strike' sanction. The Department for Work and Pensions continue to develop and enhance their strategy for combating fraud. In particular they aim to strengthen the effective deterrents and punishments currently in place to deter more people from committing benefit fraud in the first place. The new 'One Strike' came into effect as of 01/04/2010 and will be applied to all first benefit fraud offences; if an individual is convicted, accepts a caution or an administrative penalty. This is a four week sanction where Welfare Benefit entitlement will be either reduced or stopped. The new One Strike sanction will only apply if a relevant offence was committed after the commencement of this provision (01/04/2010). The right of customers to request hardship payments will not change. These payments will help ensure that the basic needs of vulnerable customers or those with families continue to be met. The penalty cannot be applied to bereavement payments, retirement pension, benefits paid for children or those that cover the extra costs of disability. Underlying entitlement remains to 'passported' Housing Benefit and free school meals etc. The reduction will be 40% of the single person's personal HB/CTB allowance unless the

customer or other member of the family is seriously ill or pregnant in which case it will be 20%.

See attached as Appendix 2

Statement of Service Standards for Investigators

The purpose of the Benefit Investigations Team is to investigate claims, to identify fraud, and to proactively prevent and deter fraud. The Statement of Service Standards defines a uniform approach to investigations, to promote confidence in the integrity of officers within the Investigation Team. This code of conduct has been in place for at least 10 years. It has been regularly reviewed and last updated in January 2009. Originally it was approved by Members but no subsequent updates have been approved. This forms an integral part of the Investigation Team's job descriptions. The Statement has been reviewed to include;

- Embedding the responsibilities of officers in regard to the Council's Avoiding Fraud and Corruption Policy, the Whistle blowing Policy, Money Laundering Policy and the ICT Security Policy
- Officers' responsibilities are incorporated in respect of the security of and the working procedures, as stipulated by the Department for Work and Pension, in regard to the use of the Customer Information System.

See attached as Appendix 3

Information Retention, Security and Destruction Policy

As part of a fraud investigation a large amount of information is collected. How this information is handled is regulated by a number of different pieces of primary legislation. These schedules adhere to the primary legislation wherever possible, and provide a comprehensive list of the material collected, the period it should be retained for, the level of security and the method of destruction required, The Policy reflects current practice

See attached as Appendix 4

Recommendations

Members are asked to note the report and endorse the attached key operational documents and policies.

Name and contact details of author:

Carol Quinton
Investigation Manager
Telephone: (01865) 252478
cquinton@oxford.gov.uk

FRAUD STRATEGY

Appendix 1

Customer Services and the Investigation Team, Finance

Purpose of the Strategy:

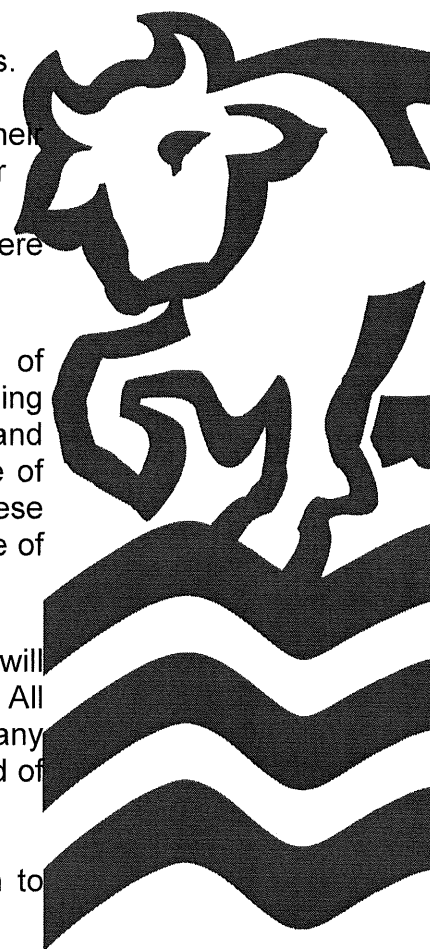
To minimise the risk of fraud and error and to help secure the Welfare Benefit System and the Benefit Service against fraud.

Aim of the Strategy:

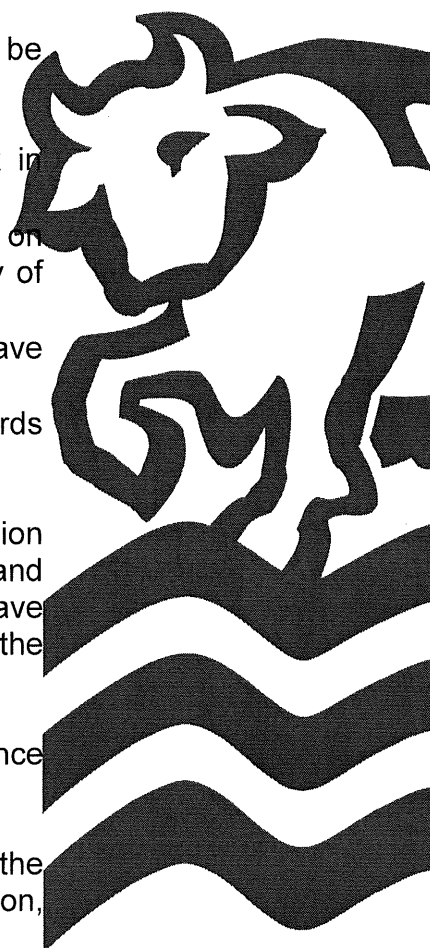
To define a uniform approach to the security of the Benefit Service and to promote confidence in the integrity of the conduct of employees within Customer Services, the Investigation Team our Internal Auditors and partners.

Strategy

1. Officers will administer benefits in accordance with the all Welfare Benefit, legislation, regulations and official guidance.
2. Officers will be appropriately trained to undertake their duties.
3. Officers will receive training on fraud awareness as part of their initial training and annual fraud awareness training thereafter
4. Officers will not proceed with the assessment of a claim where there is any cause to question the validity of the claim.
5. Officers will act with integrity and report all knowledge of suspected fraud in accordance with the Council's Avoiding Fraud and Corruption Policy, the Whistle blowing Policy and the Money Laundering Policy. Officers will have knowledge of and access to these Policies. Officers acknowledge that these Policies are an integral part of the Council's Employee Code of Conduct and Employment conditions.
6. Officers will be aware of compromising their integrity and will declare any personal interest relevant to a claim or property. All officers will act within the Strategy and will disclose any personal interest and changes to those interests to the Head of Customer Services or the Head of Finance.
7. Officers will refer any benefit claim where there is reason to suspect fraud to the Investigation Team.

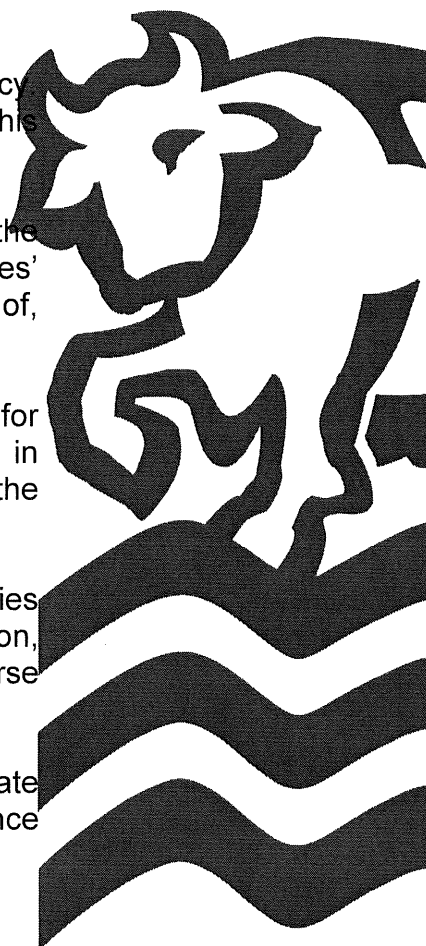


8. Officers will inform the Department for Work and Pensions of any information held that may alter the entitlement to IS, JSA(IB), JSA(C), ESA, DLA and other Welfare Benefits.
9. Officers will inform Her Majesty's Revenue and Customs of any information held that may alter or affect the entitlement to Tax Credits and any information held that may affect an individual's immigration status.
10. Working procedures will be documented and reviewed to ensure best practise. Officers will have knowledge of and access to the procedures.
11. Officers will work to the security and working procedures in regard to the Department for Work and Pensions Customer Information System (CIS aka SEF). The use of this system will be monitored in accordance with the Department for Work and Pensions requirements.
12. The Benefit Application forms as 'Living Documents' will be regularly updated to reflect change in policy and legislation
13. Customer Services and other Council Services who work in conjunction with the Benefit Service will;
 - have effective Management checks to provide assurance on the integrity and security of the Benefit process and quality of performance.
 - ensure that officers with checking responsibilities do not have operational duties.
 - be committed to regular liaison meetings to work towards continuous service improvement.
14. Customer Services, Benefit Service and the Investigation Team will work in accordance to the Department for Work and Pensions National Service Level Agreement. Officers will have knowledge of and access to the agreement and monitor the compliance
15. The Investigation Team will carry out their duties in accordance to their Statement of Service Standards.
16. The Authority has a Prosecution Policy detailing the circumstances in which cases are considered for Prosecution,



Formal Caution or Administrative Penalty. Officers will have knowledge of and access to this policy.

17. The Authority is committed to publicising the details of all successful prosecution cases on the Council's Intranet, the Oxford City Council Website and in the local press.
18. The Authority is committed to operating the Royal Mail Service to return re-direct benefit mail, the Housing Benefit Matching Service and the National Fraud Initiative.
19. The member approved Whistle blowing Policy is included in the Oxford City Council Constitution. Officers will have knowledge of, access to and abide by this Policy.
20. The member approved Avoiding Fraud and Corruption Policy is included in the Employee Code of Conduct and is subject to all employees conditions of employment. Officers will have knowledge of, access to and abide by this Policy.
21. There is a member approved Money Laundering Policy. Officers will have knowledge of, access to and abide by this Policy.
22. The member approved ICT Security Policy is included in the Employee Code of Conduct and is subject to all employees' conditions of employment. Officers will have knowledge of, access to and abide by this Policy.
23. All information relating to an applicant and their claim for benefit will be treated as confidential and disclosed only in accordance with the Data Protection Act 1998 and the Freedom of Information Act 2000.
24. All officers and teams will comply with the Authorities Conditions of Employment, Corporate Aims, Constitution, Policies and Procedures in order to protect the public purse and meet the needs of their customers.
25. Officers act with fairness and impartiality, do not discriminate against any individual or organisation and work in accordance with the Human Rights Act 1998.



Appendix 2

WELFARE BENEFIT PROSECUTION AND SANCTIONS POLICY

1. INTRODUCTION

1.1 The Council is aware of the high risk within the Welfare Benefit system for fraud, error or irregularity and the necessity to protect the public purse from abuse. It has invested resources in establishing a team of Officers dedicated to identifying, investigating and preventing benefit fraud.

1.2 The Council recognises that deliberate abuse of the Welfare Benefit schemes by an individual or individuals in order to obtain money from the Council, Job Centre Plus or the Pension Service to which there is no legal entitlement is a criminal offence.

1.3 The Council recognises the need to adopt a policy for determining which offences are dealt with through a criminal prosecution and a procedure for managing the process.

1.4 Where a landlord, a claimant, the partner of the claimant or a third party has allegedly committed a fraud against the Council, and the Investigators consider that there is sufficient evidence to sustain a prosecution, then the Council will first consider whether it is in the Council's and public interest to undertake the prosecution.

1.5 The Council recognises the alternative to Prosecution, which is to consider imposing an Administrative Penalty as defined under the Social Security Administration (Fraud) Act 1997 or offering an Official Caution.

1.6 The Council recognises that any of its employees or elected Members may claim Welfare Benefits and could become the subject of a criminal investigation if they make a fraudulent claim.

2. THE POLICY

2.1 Where a payment of benefit is considered to have been fraudulently obtained, the Investigation Manager and the Senior Investigations Officer will use the following criteria to decide whether to pursue a deterrent action;



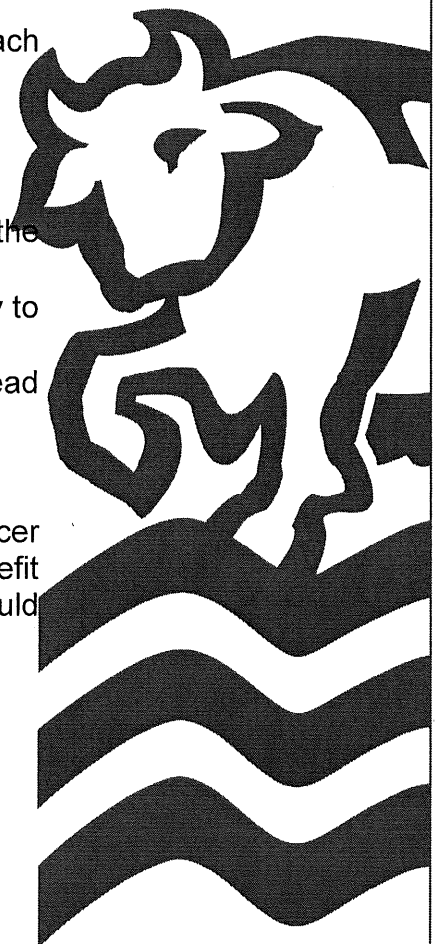
- The facts of the case
- A good prima facie case has been established
- The proof that it was the offenders intention to defraud
- The proof that the offender had knowledge about the benefit scheme
- The admissible evidence
- The quality of the investigation
- Voluntary disclosure
- The financial burden to the customer
- The health and social consequences to the customer
- Any known communication problem
- The length of time the fraud has been ongoing
- The overpayment amount
- Administrative delay & time constraints
- Any previous fraud history
- The cost of the proceedings

2.2 Consideration will also be given to the public interest of each case. Factors in support of a prosecution may be that;

- a conviction is likely to result in a significant sentence
- the defendant was in a position of authority or trust
- there are previous convictions or cautions relevant to the current offence
- there are grounds for believing that the offence is likely to be continued or repeated
- the offence, although not serious in itself, is widespread in the area where it was committed.
- a conviction will act as a deterrent.

2.3 The Investigation Manager and the Senior Investigation Officer will, in accordance with the Criteria for Welfare Benefit Prosecutions (see Appendix B) agree whether the case should proceed as;

- An Official Caution
- An Administration Penalty
- A Prosecution by;
 - * The Department for Work and Pensions
 - * The Police
 - * The Council's Legal Department



3. OFFICIAL CAUTION

3.1 Cases that are to be considered for an Official Caution, as an alternative to prosecution will be referred to the Investigation Manager or the Senior Investigations Officer.

3.2 In these cases the total Welfare Benefit overpayment will be in total less than £5000 and the landlord, claimant, partner or third party will have admitted the offence and will have shown remorse.

3.3 If an Official Caution is not accepted by the offender as an alternative remedy, then the matter will be reconsidered for prosecution under the Social Security Administration Act 1992, the Theft Act 1968 or the Fraud Act 2006.

4. ADMINISTRATION PENALTY

4.1 An Administrative Penalty, as an alternative to a criminal prosecution, will be offered in cases where the criteria for prosecution has been met but the threshold levels and general criteria indicate that an Administrative Penalty would be a more suitable solution.

4.2 The Social Security Administration (Fraud) Act 1997 allows the authority to administer a penalty (currently 30% of the amount of benefit fraudulently obtained). The Council will recoup the Administrative Penalty in addition to any overpaid benefit.

4.3 If an Administrative Penalty is not accepted by the offender as an alternative remedy, then the matter will be reconsidered for prosecution under the Social Security Administration Act 1992, the Theft Act 1968 or the Fraud Act 2006.

4.4 The officers with the delegated responsibility for authorising Administrative Penalties shall be the Investigation Manager and the Senior Investigations Officer.

5. ONE AND TWO STRIKE SANCTIONS

5.1 The Department for Work and Pensions will be notified in writing of all successful sanction in order to impose the One and Two strike sanctions.



5.2 The One Strike sanction was introduced by legislation effective as of 01/04/2010. This additional sanction will reduce a person's entitlement to Welfare Benefits for a 4 week period after sanction.

5.3. The Two Strike sanction will reduce a person's entitlement to Welfare Benefits for a period of 13 weeks in cases where an individual has been successfully prosecuted twice within a 5 year period.

6. A FRAUDULENT CLAIM BY AN EMPLOYEE OR A MEMBER OF THE COUNCIL

6.1 In cases where an employee or Member of the Council is implicated the case will be considered for deterrent action in accordance with the Prosecution Policy. The Investigation Manager will advise the Chief Executive, Directors and appropriate Heads of Service of the decision taken to prosecute or sanction. The Council's Internal Auditors and the Audit and Governance Committee may also be advised of the outcome of the proceedings.

7. OVERPAYMENT OF BENEFIT

7.1 The Council will seek to recover any overpayment in accordance with their policies and procedures. This may result in action being taken in the County Court. Alternatively deductions may be taken from ongoing benefit.

8. PUBLICITY

8.1 Where appropriate and making use of the professional services within the Council, details of prosecution cases will be released to the press.

8.2 Alternatively supplying such details as is reasonable in response to a request from a member of the press.

8.3 The decision on this matter will be based on whether such action will assist the objective of deterring fraud.

8.4 All successful prosecution cases will be published on the Council's Intranet and Oxford City Council Web Site.



CRITERIA FOR WELFARE BENEFIT PROSECUTIONS AND ALTERNATIVE SANCTIONS

1. OVERPAYMENT LESS THAN £500

1.1 The Council believes that in most instances it will not be in the public interest to prosecute or to offer an Official Caution or Administrative Penalty if the overpayment is under £500 and;

- the offender has never previously offended
- there was no pre-meditation involved in the process
- there was no other person involved in the fraud
- the person is in genuine hardship, or a single parent, or a pensioner, or under sixteen, or is in need of Social Services assistance or regarded as vulnerable.

1.2 The Council will seek to recover any overpayment in accordance with their policies and procedures. This may result in action being taken in the County Court. Alternatively deductions may be taken from ongoing benefit.

2. OVERPAYMENTS GREATER THAN £500 BUT LESS THAN £5,000

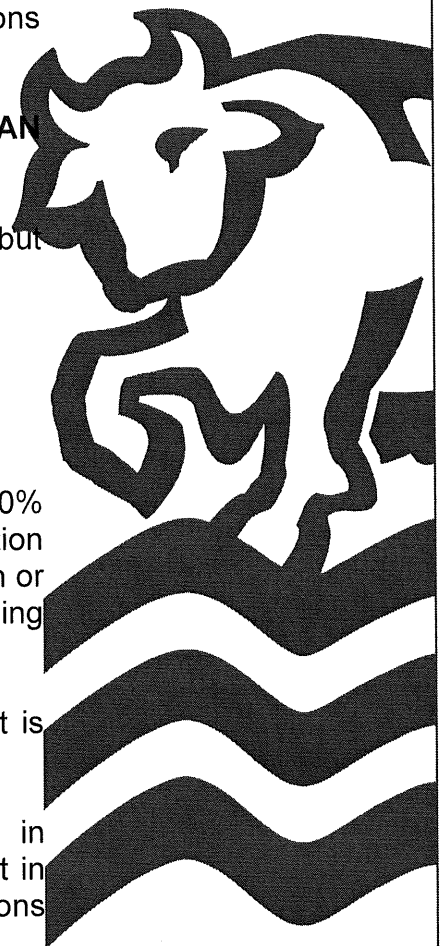
2.1 In other cases where the overpayment is under £5000, but where;

- they have never previously offended
- there is evidence to support an offence has been committed
- there was no other person involved in the fraud

The Council will consider an Official Caution or offer a 30% Administrative Penalty under the Social Security Administration (Fraud) Act 1997. Should the offender refuse an Official Caution or the Administration Penalty, consideration will be given to bringing a prosecution.

2.2 A person will not be offered an Administrative Penalty if it is shown that such action will cause financial hardship.

2.3 The Council will seek to recover any overpayment in accordance with their policies and procedures. This may result in action being taken in the County Court. Alternatively deductions may be taken from ongoing benefit.



3. OVERPAYMENTS GREATER THAN £5,000

3.1 The Council will seek to prosecute in most cases if the overpayment is more than £5,000 and;

- it was not the first offence
- there was pre-meditation involved in the process
- there were other people involved in the fraud

3.2 The Council will seek to recover any overpayment in accordance with their policies and procedures. This may result in action being taken in the County Court. Alternatively deductions may be taken from ongoing benefit.

3.3 The Council will apply to the Court for costs in all cases.

Some cases will not fall readily into any category. Every case will be considered on its merits.



Appendix 3

Investigation Team

Statement of Service Standard

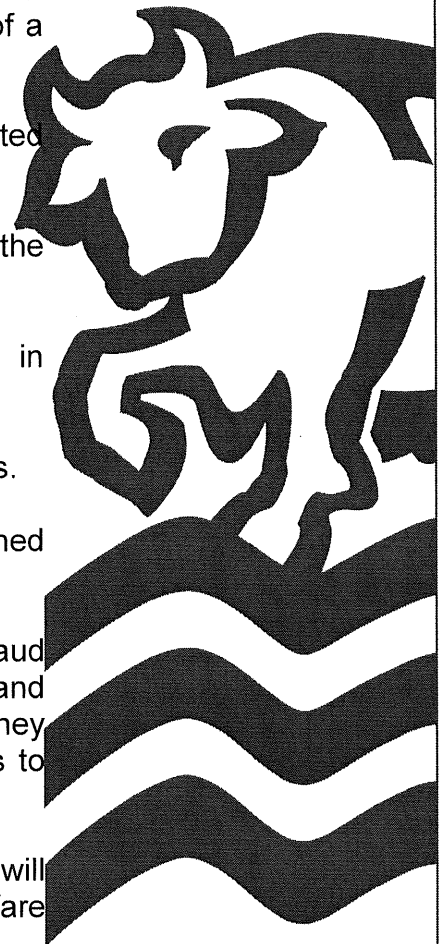
Purpose of the Team:

To investigate claims, to identify fraud, and to proactively prevent and deter fraud.

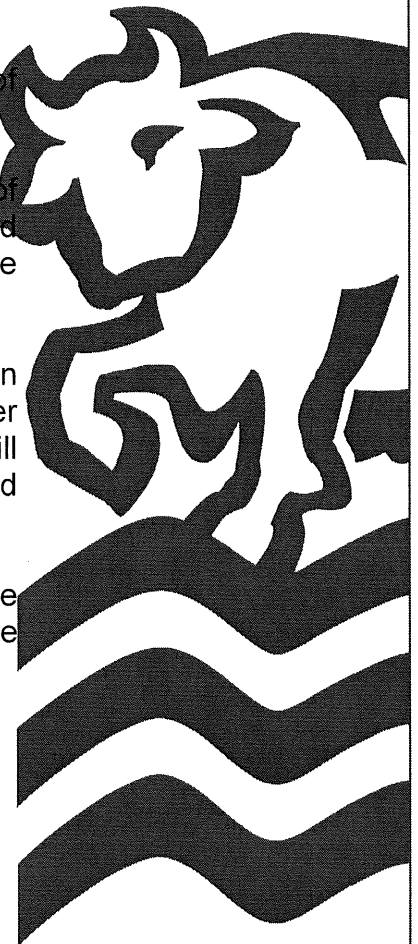
Aim of the Statement:

To define a uniform approach and to promote confidence in the integrity of the conduct of officers within the Investigation Team.

1. Officers will investigate suspected fraud thoroughly and pursue lines of enquiry to establish the facts.
2. Under section 67(9) of the Police and Criminal Evidence Act 1984, Officers are persons charged with the investigation of a crime and are subject to the restraints within the Act.
3. A recommendation to stop or reduce benefits will be supported by findings, facts and evidence.
4. Deterrent action is determined independently of the investigation and in accordance with Council policy.
5. Working Procedures will be documented and reviewed in accordance with the quality process.
6. Officers will be appropriately trained to undertake their duties.
7. Officers will aim to respond to communications within published performance targets.
8. Officers will act with integrity and report all knowledge of fraud in accordance with the Council's Avoiding Fraud and Corruption Policy, Whistle blowing Policy and Money Laundering Policy. Officers will have knowledge of, access to and abide by these Policies.
9. Officers will be aware of compromising their integrity and will declare any personal interest relevant to a case or Welfare Benefit claim



10. Officers will treat the public with courtesy and identify and conduct themselves as Officers of the Council.
11. All information relating to an investigation will be treated as confidential and disclosed only in accordance with the Data Protection Act 1998 and the Freedom of Information Act 2000.
12. Investigating Officers will be appointed Inspectors under Section 110a of the Social Security Administration Act 1992.
13. Evidence will be recorded in accordance with the Criminal Procedure and Investigation Act 1996.
14. Interviews will be conducted in accordance with the Police and Criminal Evidence Act (PACE) 1984.
15. Officers will act within the limits of their designated powers and authority.
16. Officers will act with regard to personal safety and the safety of the public.
17. Officers will comply with the Authorities Conditions of Employment, Corporate Aims, Constitution, Policies and Procedures in order to protect the public purse and meet the needs of their customers.
18. Officers will work to the security and working procedures in regard to the Department for Work and Pensions Customer Information System (CIS aka SEF). The use of this system will be monitored in accordance with the Department for Work and Pensions requirements.
19. Officers act with fairness and impartiality, do not discriminate against any individual or organisation and work in accordance with the Human Rights Act 1998.



Appendix 4

Investigation

Information Retention, Security and Destruction Schedules

The Investigation Team collects large amounts of information. This material is governed by extensive legislation that dictates how the information is collected, recorded, retained, revealed and ultimately destroyed. Principally the following legislation applies:

- Police and Criminal Evidence Act 1984
- Criminal Procedures and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 1998
- Freedom of Information Act 2000.

The following schedules provide a comprehensive list of the material collected, the period it should be retained for, the level of security and the method of destruction. These schedules attempt to apply all the relevant legislation, however, some of the legislation conflicts. In these instances the most reasonable approach is adopted.

The majority of material collected during the course of the investigation is held securely in a fraud file. The instructions apply to the contents of the file as well as the file itself. If specific documents are treated differently they will be recorded separately. Examples of which would include QB50 notebooks and surveillance applications.

Fraud Referrals

Item / Documents	Retention Period	Security	Destruction Method
Referrals recorded Non-Fraud, Overload and Referred to DWP including any attached documentation.	2 years	Stored in lockable filing cabinets in a central file(s) and then in secure Audit Room.	Confidential waste
Referral Feedback Forms	In line with Benefit File Retention	Electronic Data Image.	Confidential waste

Investigations

Item / Documents	Retention Period	Security	Destruction Method
Fraud Files closed Fraud Not Established	2 Years. HB documents retained on DIPS. Originals provided by the customer returned immediately	Stored in lockable filing cabinets and then in secure Audit Room.	Confidential waste
Fraud Files closed Fraud Established, no sanction applied.	2 Years HB documents retained on DIPS. Original provided by the customer returned immediately.	Stored in lockable filing cabinets and then in secure Audit Room.	Confidential waste
Fraud Files with a Sanction applied e.g Formal Caution or Administrative Penalty.	6 Years HB documents retained on DIPS. Originals provided by the customer returned immediately.	Stored in lockable filing cabinets and then in secure Audit Room.	Confidential waste
Prosecution files	6 Years HB documents retained on DIPS. Originals provided by the customer returned immediately	Stored in lockable filing cabinets and then in secure Audit Room. .	Confidential waste
Fraud Drive master files, NFI list.	As per above. 2 or 6 years Access to Master NFI dictated as per Audit Commission – NFI Web Access	Stored in Lockable filing cabinets and then in secure Audit Room. .	Confidential waste

Investigations (Specific evidence / documents)

Item / Documents	Retention Period	Security	Destruction Method
Interview under Caution tapes.	Investigation with Ad Pens – destroyed after 28 day cooling off period. Caution and Court cases destroyed with file after 6 years. Tape log to be noted.	Stored in Fire Proof Safe and then in secure Audit Room. .	Tape broken and placed in Confidential waste
Interview Under Caution tape log.	6 years from completion of log book	Stored in Fire Proof Safe.	Confidential waste
QB50 Notebooks	5 Years from the date of last entry.	Stored in lockable cabinets	Confidential waste

Surveillance Documents

Item / Documents	Retention Period	Security	Destruction Method
Applications, authorisations and cancellations.	As per Investigations 2 or 6 years for Fraud Files Legal records in accordance with Legal retention of documents.	Stored in lockable cupboard and then secure Audit Room. Central Records stored in Legal central filing system	Confidential waste
Surveillance Logs	As per Investigations 2 or 6 years for Fraud Files	Stored in lockable cupboard and then secure Audit Room.	Confidential waste

Customer Information System

Item / Documents	Retention Period	Security	Destruction Method
Test Check Records LAST 1	Indefinitely	Stored in lockable filing.	Confidential waste
CIS/SEF Prints	As per investigation Fraud File 2 or 6 years	Stored in lockable cupboard and the in secure Audit Room.	Confidential waste
CIS/SEF Memorandum of Understanding (MoU)	On termination of employment within the Benefit or Investigation Service.	Stored in lockable filing. Centrally in Benefits	Confidential waste

Computer Records

Item / Documents	Retention Period	Security	Destruction Method
FIMS. Cases closed Fraud Not Established.	2 Years	User password access only.	Complete deletion
FIMS. Cases closed Fraud Established no sanction applied.	3 Years	User password access only.	Complete deletion
FIMS. Cases closed Fraud Established sanction applied e.g. Formal Caution or Administrative Penalty.	5 Years	User password access only.	Complete deletion
FIMS. Prosecution cases.	5 Years	User password access only.	Complete deletion
FIMS Cases failed risk assessment, referred to DWP, risk based review request, closed No Fraud.	18 Months.	User password access only.	Complete deletion

Other Records

Item / Documents	Retention Period	Security	Destruction Method
Word Documents. Documents associated to fraud files.	Length of the active investigation and then in line with retention period for Fraud files	User password access only.	Complete deletion on deletion of Hard copy file.
Record of Authorised Officers Powers. (Electronic and hard copy)	As per NAFN Retention Period for NAFN Authorised Officers. Destroyed on termination of employment	User password access only.	As per NAFN.
Record of OCC Authorised Officers Powers. (Electronic and hard copy)	For 1 year destroyed on renewal or termination of employment	Held by individual officers in locked desk drawers	Confidential waste
NAFN enquiries SSFA	As per NAFN Secure Web Site	User password access only	As per NAFN
NAFN enquiries SSFA	As per Fraud File 2 or 6 years.	Stored in lockable filing cabinets and then in secure Audit Room.	Confidential waste
NAFN enquiries with costs.	As per Fraud File 2 or 6 years.	Stored in lockable filing cabinets and then in secure Audit Room.	Confidential waste
NAFN enquiries with costs.	6 years for Budget Accounting purposes	Stored in lockable filing.	Confidential waste
TVP DP 29 Enquiries	1 year	Stored in lockable filing.	Confidential waste

