

Housing Benefit and Council Tax Benefit **Anti-Fraud Policy**

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1. Introduction

- 1.1 Housing Benefit and Council Tax Benefit should only be paid to claimants who are entitled to receive them. It is therefore important that the administration of Housing Benefit and Council Tax Benefit is secure, fair, provides help where it is needed and is vigilant in tackling fraud. Fraud is the deliberate withholding or falsification of information to obtain benefit and is a criminal offence. Fraudulent activity cannot be accepted or tolerated and appropriate action must be taken against those who abuse the system.
- 1.2 This policy document has been prepared in order to demonstrate the measures that will be taken by the Shetland Islands Council to meet its responsibilities to prevent and detect fraudulent claims and deter benefit claimants who may negligently or deliberately perpetrate benefit fraud.

2. Benefit fraud definition

- 2.1 The complex rules governing entitlement to Housing Benefit and Council Tax Benefit create many opportunities for people to commit fraud, both by lying (making false statements) when claiming the benefits and by concealing subsequent changes (failing to notify a change in their circumstances) which may end or reduce their entitlement. Housing Benefit awarded to people who rent in the private sector may be paid directly to landlords, creating opportunities for fraud by them as well as claimants.
- 2.2 Fraud is a deliberate act as opposed to an error, which occurs without intention. Fraud occurs where there is a deliberate intent by a person to obtain financial advantage by deception and to that end the person:
 - Makes a statement or representation which he/she knows to be false; or
 - Fails to notify the Benefits Section of a change of circumstances

3. The role of staff in preventing and detecting fraud

- 3.1 All benefit claims must be subjected to the proper verification of identity, income, capital, household membership and residency to ensure that benefit is paid to the correct person, at the correct rate. Staff should at all times be alert to the possibility that a benefit claim may be incomplete or contain false information.
- 3.2 To be effective in preventing and detecting benefit fraud, staff must have a sound knowledge of the benefits system. Training must be provided to ensure that the benefit regulations are correctly implemented and to develop an awareness of fraudulent activity. Training will mainly be undertaken in-house with attendance on external courses where it is considered appropriate.
- 3.3 As a minimum the Revenue Services Manager and the Benefits Manager must have gained membership of the Institute of Revenues, Rating and Valuation and should be qualified as Authorised Officers, having successfully completed the Department for Work and Pensions (DWP) Professionalism in Security (Pins 9) qualification.

- 3.4 Where fraudulent activity is suspected it should be referred to the Benefits Manager or in her absence the Revenue Services Manager on a fraud referral form. Regular evaluation, monitoring and feedback where possible, to the originator of the fraud referral, will keep them informed of the progress and outcome of the referral.
- 3.5 Council employees should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them or be perceived to influence them in the performance of their duties. Staff must not process claims involving relatives, friends or associates.
- 3.6 Benefits staff must declare any interests that might be perceived to influence benefit decisions. A Register of Staff Interests must be retained and reviewed on a monthly basis to record claims received from close relatives of benefits staff, or if a member of staff is a landlord or has a close relative that is. Close relative in this context is defined as:
- a partner or spouse;
 - a parent, step-parent or parent-in-law, or their partner; or
 - brother or sister, step-brother or step-sister, or their partner ; or
 - son, son-in-law, daughter, daughter-in-law, step-son, stepdaughter, or their partner or their children including stepchildren
- 3.7 Staff should ensure that their actions do not encourage fraudulent activity. The appropriate level of authority should determine computer access. Computer terminals should not be left unattended and password protected screen savers should be activated when not in use.

4. Measures to prevent fraud

It is often difficult to distinguish fraud from genuine mistakes or misunderstandings made by claimants and landlords. Therefore, it is important that the Council have procedures in place that prevent mistakes or fraud from entering the system. The Council will undertake the following activities in order to prevent genuine mistakes or fraud from entering the system:

- 4.1 Regulations permit the Council to ask for such verification as is needed to put benefit into payment, subject to what is a reasonable request. When a claimant first applies they will be required to provide proof of identity, evidence of all income and capital, proof of allowable expenses and evidence of rent liability. The documentation provided as evidence must, where possible, be original documentation and sufficient to give an accurate picture of current circumstances;
- 4.2 Management controls will be in place to ensure that correct procedures are being followed to minimise fraud and error. For example an internal control sheet, which serves as a checklist, must be completed by benefit processing staff before a claim can be paid.

- 4.3 A random selection of benefit claims being processed will be checked by the Benefits Manager or in her absence the Revenue Services Manager to ensure that the claim is calculated correctly and that all the required evidence provided is sufficient. The computerised benefits system will randomly select the claims to be checked and will only allow payment of benefit once checked and authorised by the relevant manager;
- 4.4 BACs payments will be the preferred method of payment. Claimants and landlords will be encouraged to accept payment by electronic transfer directly to their bank/building society, which eliminates the possibility of payments being cashed by other persons fraudulently;
- 4.5 The Benefit Section will cross-reference benefit claim information with other Revenues internal records such as Council Tax and Council Rent accounts to ensure that the information received is consistent with other Council records;
- 4.6 Where permitted by relevant legislation, the Benefits Section will liaise closely with other bodies and organisations such as landlords, Jobcentre Plus, The Pension Service, Inland Revenue and other Council services such as Housing and Social Services to verify benefit claim information;
- 4.7 The Royal Mail's Do Not Redirect Service to return redirected mail will be utilised as a means of preventing benefit letters and benefit paid by cheque being sent to someone who has either left or never resided in a property;
- 4.8 At every opportunity we will remind our customers of their responsibilities to report changes to their circumstances, which will have a preventative effect by encouraging claimants to report changes that might otherwise not have been reported and therefore avoid fraud entering the system;
- 4.9 Fraud awareness publicity will highlight the problem of benefit fraud and discourage potential fraudsters. We will deliver the message that fraud is a crime and there are consequences for anyone who sets out to defraud the Council.

5. Detection

It is inevitable that there will be fraudulent claims that were not prevented from entering the system and which arise due to a deliberate failure to report changes in circumstance. The procedures to be followed by staff on suspicion of fraud are detailed in section 6 of this policy. However, the following activities will be undertaken to help detect fraudulent claims:

- 5.1 Staff and stakeholders will be given guidance on how to make a referral for investigation. Targeted advertising will take place of the dedicated hotline number staffed during office hours open to employees and the public. The Council website contains guidance for employees and the public on how to make a referral electronically, in writing and by telephone;

- 5.2 All investigations will be undertaken by officers who as a minimum have membership of the Institute of Revenues, Rating and Valuation and should be qualified as an Authorised Officer, having successfully completed the DWP Professionalism in Security (Pins 9) qualification;
- 5.3 The Council will make maximum use of the DWP Housing Benefit Matching Service. On a monthly basis the Council's benefit data is matched with records held by the DWP, HMRC and the Credit Reference Agency. Inconsistencies between the data are highlighted and referred back to the Council for consideration. Cases where fraud is suspected will be referred for investigation;
- 5.4 The Council will participate in the National Fraud Initiative. Data is provided by local authorities and other public bodies to the Audit Commission and cross-matched to find inconsistencies. Lists are provided detailing cases where the data held does not match and requires further examination. We will use this information to detect possible cases of fraud and error and initiate investigations in appropriate cases;
- 5.5 Investigating benefit fraud can be time consuming and must be carried out by staff that specialise in fraud work and are trained fraud investigators. Consequently, the Council will whenever possible, and as the preferred route, undertake joint investigation and sanction action with the DWP Fraud Investigation Service in cases where Housing and/or Council Tax Benefit and a DWP benefit is also in payment. By doing this the Council will utilise the DWP's highly trained fraud investigators, counter fraud surveillance teams and their counter fraud intelligence unit who can search credit reference agency details and DVLA data;
- 5.6 On a weekly basis a review of claims will be done based on the risk of a change having occurred and the length of time since the last review. Claimants will be unaware of when a review is to be carried out. The reviews will take the format of telephone call, form or home visit;
- 5.7 The Benefits Manager and the Revenue Services Manager are authorised under the Social Security Administration Act 1992 to request information relating to an investigation from third parties out-with the local authority. The following are external intelligence sources available to and used by investigating officers to gather evidence during the course of an investigation:
- DWP's Customer Information System – Providing a comprehensive picture of a customer's social security benefit history along with tax credit information and history.
 - National Anti Fraud Network – Providing data and intelligence information from a variety of sources to support in their protection of the public purse.
 - Operational Intelligence Unit – Providing a gateway for accessing information from HM Revenues and Customs relating to employment, self-employment and capital.

- Credit Reference Agencies – Providing information regarding credit held and applied for at a particular address or multiple addresses giving investigators evidence relating to allegations of undeclared residents or bank accounts.
- Land Registry – Providing investigation officers with a means to validate the landlord's ownership of properties for private sector claimants.

6. Procedures to be followed on suspicion of fraud

6.1 If benefit fraud is suspected it should be referred as follows:

- A fraud referral form should be completed and forwarded to the Benefits Manager or in her absence the Revenue Services Manager;
- The referral will be assessed for its quality and an assessment will be undertaken to determine the risks to public funds;
- An investigation will be made into the fraud allegations;
- On the conclusion of the investigation the person who made the original referral will receive notice of the outcome;
- Fraud involving other Social Security Benefits such as Income Support or Jobseekers Allowance should be investigated in accordance with the agreement between the Council and the Jobcentre Plus/Fraud Investigation Service;
- If a member of the public notifies the Council of a suspected fraud, details should be taken and then forwarded to the Benefits Manager or in her absence the Revenue Services Manager.

6.2 A fraudulent claim for benefit is a criminal offence and the Council must consider the following range of options:

- To investigate and gather evidence to ascertain if a criminal offence has occurred. As part of the investigation process claimants may be requested to take part in an interview in order to present all evidence gathered and allow the claimant their chance to explain or dispute any inconsistencies. The interview will be carried out by the Benefits Manager or the Revenue Services Manager and they will be accompanied by a note taker. The claimant under investigation will receive a copy of the notes of the interview if requested. Thereafter the quality and weight of the evidence gathered will be considered to ascertain if there is a sufficiency of evidence to prove this offence to the required standard to determine whether a fraud has been committed.
- If there is insufficient evidence, to take no further action as there is insufficient evidence to support criminal proceedings;

- If there is a sufficiency of evidence, consideration can be given to offer an Administrative Caution. A fraud has to have been committed, and admitted to;
- If there is a sufficiency of evidence, consideration can be given to offer an Administrative Penalty as a direct alternative to prosecution. This is a fixed penalty which is calculated as 30% of the benefit overpayment arising from the offence. The Administrative Penalty is added to the repayable overpayment amount;
- To consider prosecution, and if there is a sufficiency of evidence report the case to the Procurator Fiscal.

7. The decision to prosecute or impose a sanction

- 7.1 The decision to prosecute or impose a sanction is a serious matter and as such each case will be decided on its own merits within the framework of this policy.
- 7.2 The investigator must demonstrate that the following has been established:
- A good case to answer (prima facie)
 - Sufficient corroborative evidence of false information or failure to declare a change
 - Sufficient corroborative evidence of fraudulent intent
 - A complete record of the investigation
- 7.3 An interview under caution is necessary before a case can be prosecuted or an Administrative Penalty can be offered. If there are grounds to suspect a customer has committed an offence a caution must be given before any questions about the offence are asked. Benefits staff cannot issue a caution until they have received the appropriate training. If no-one in the benefits section has received the relevant training it will be necessary to refer the case to the Northern Constabulary for prosecution.

8. Prosecution

- 8.1 After a full investigation, collection of evidence and an interview under caution, a decision will be made on whether prosecution is appropriate. The Council will normally consider prosecution where:
- The sum of money defrauded is significant, this will normally be where the overpayment exceeds £2000;
 - The fraud has been perpetrated over a protracted period of time;

- The claimant has previously made a fraudulent claim for benefit;
- The claimant is a Council employee;
- The case has arisen from collusive action between two or more persons;
- An administrative penalty or formal caution has been offered and refused;
- A prosecution would be in the interest of the public and/or the Council;

8.2 Cases where the amount of overpayment does not exceed £2000 will not be excluded from prosecution merely because the amount falls below this threshold. There may be other factors that still make prosecution appropriate. These circumstances include:

- The person involved in the fraud was in a position of trust, for example, a member of staff;
- The person has used a false identity document, either forged or counterfeit, to claim benefits;
- It is known that the person has been previously convicted of benefit fraud;
- The person previously agreed to pay an administrative penalty or has received a formal/administrative caution in respect of an earlier offence;
- The person has declined the offer of an administrative penalty or formal/administrative caution or has withdrawn from an agreement to pay an administrative penalty.

8.3 In determining what constitutes the best interest of the public and the Council, the physical and/or mental well being of the claimant will be taken into consideration. Cases where it would not be appropriate to prosecute include those where:

- The claimant is suffering from medically confirmed stress or nervous problems;
- The claimant is elderly or bedridden;
- The claimant has hearing or sight problems which could impair those completing forms or understanding questions;
- The claimant has a severe mental impairment;
- The claimant was driven to commit the offence due to tragic domestic circumstances;

- The likelihood that a prosecution would cause unnecessary injury to a third party;
- There was a failure in benefit administration that made a major contribution to the fraud. For example, it would not normally be appropriate to prosecute where benefit has been paid on incomplete information or the claim form has been badly completed by an interviewing officer.

9. Formal Caution and Administrative Penalty

The sanctions available for the Council to administer as an alternative to prosecution are formal caution and administrative penalty.

9.1 Formal Caution

A formal caution is a serious measure and meaningful penalty that will be handled as formally as any other sanction. The quality of evidence required is of the same standard as that required for a prosecution. In particular should the claimant refuse the sanction there should be sufficient evidence to consider referral to the Procurator Fiscal for prosecution. A caution will be considered where the following conditions are met:

- There is sufficient evidence of the person's guilt;
- The public interest test is met;
- A clear and reliable admission of the offence has been obtained during an interview under caution;
- The person has not committed a benefit offence before;
- The person has committed a minor benefit offence within the last 5 years but was not prosecuted for the earlier offence;
- The person's attitude towards the offence indicates that a caution would be a suitable alternative to prosecution, for example, if they express genuine remorse for what they had done;
- A caution is likely to act as a deterrent and the overpayment is less than £2000. Exceptionally a caution will be offered in cases where the overpayment is more than £2000 if the Revenue Services Manager and the Benefits Manager agrees that it would not be appropriate to seek a prosecution.

9.2 Administrative Penalty

Local authorities have the power to offer a claimant a penalty of 30% of the overpayment deemed to be fraudulent. The claimant can accept or decline the offer and if accepted has 28 days to withdraw from the agreement. Where a decision is reached that there is sufficient information to prosecute, consideration may be given as to whether the imposition of an administrative penalty would be more appropriate given the following factors:

- The case is not so serious that the first option would be prosecution
- Any previous fraudulent history
- The claimant's ability to repay
- The value of the overpayment. Under normal circumstances an administrative penalty will be applied in cases involving overpayments of less than £2000. Exceptionally there may be circumstances where it is appropriate to issue a formal caution instead if the Revenue Services Manager and Benefits Manger feel it is justified. The reason for this will be fully documented for each case.

10. Publicity of convictions

- 10.1 A successful prosecution for benefit fraud may act to deter others from fraud. A press release may be issued if it will generate positive publicity and promote the willingness of the Council to prosecute. However, great care should be taken in the content of such a press release and in particular nothing more may be said following conviction than was said before the court.

11. Recovery of overpayments

- 11.1 All benefit overpayments that are determined to be recoverable should be pursued using the following methods:
- By deduction from ongoing Housing Benefit entitlement;
 - From arrears of benefit, which become payable while there is an outstanding overpayment;
 - By deduction from other social security benefits by means of application to the DWP Debt Management Service;
 - By raising an invoice, to be pursued in accordance with the Council's debt recovery policy and procedures;

- In the case of Council Tax Benefit, by adding the overpayment onto the claimant's Council Tax account;
- In the case of Council Tenants, by adding the Housing Benefit overpayment onto the claimant's Council Rent account;

11.2 Benefit overpayments recovery levels and actions will be monitored on a monthly basis and reported to the Revenue Services Manager.

12. Monitoring the effectiveness of the policy

12.1 A decision on whether to prosecute, or use the Administrative Penalty, must be recorded along with the outcome. This will be used to monitor the effectiveness of the policy, identify necessary amendments and to predict the likelihood of a successful prosecution in the future.

13. Review of the policy

13.1 The policy will be reviewed and appropriate changes made where legislation and working practices make such amendments necessary.

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