

# ***Anti Fraud 2011-2012 Strategy on tackling Benefit fraud***

***Corporate Governance***



**Owner : Corporate Governance Manager**

**Version No : 2011/12**

**Anti-Fraud 2011-2012 Strategy**

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## Introduction & Statement of Intention

The Section 151 Officer for Basingstoke & Deane Borough Council has a responsibility under the Accounts and Audit Regulations 1996 Reg 4(4) which states. 'The accounting control systems determined by the responsible financial officer in accordance with paragraph (1) shall include' —

- (a) Measures to ensure that the financial transactions of the body are recorded as soon as reasonably practicable and as accurately as reasonably possible, measures to enable the prevention and detection of inaccuracies and fraud.

## Resources

In order to implement the strategy, the Chief Executive has appointed authorised officers, who have the power of entry and inspection under section 110A of the Social Security Administration Act 1992 as amended. Each officer is issued with a certificate of appointment which lasts for one year. It carries the full name of the officer, the start and end dates of the appointment, reference to section 110A of the Social Security Administration Act 1992, the council's logo, address and contact number for verification, the officers photograph and the Chief Executive's signature. It also carries a summary of the officer's powers.

The officers use their cards to identify themselves as authorised officers, to inspect business premises, and to interview people who may hold information relevant to a claim of housing benefit and/or council tax benefit. Any abuse of these powers will result in the officer facing disciplinary proceedings.

The investigation staff's duties are to investigate possible abuses of the benefit system by interviewing those claiming benefit and collecting and maintaining evidence to support the allegation of abuse.

## The Use of a Case Management System

The council's housing benefit anti-fraud team uses a computerised fraud management system. This system enables detailed management, monitoring and recording of claims under investigation.

## Data Matching Exercises

All Basingstoke & Deanes Borough Council benefits data is matched with various data sources in order to identify inconsistencies or error, which may affect entitlement to housing /council tax benefit. Basingstoke & Deanes Borough Council currently supplies benefits data to the Department for Work and Pensions (Housing Benefit Matching Service) and the Audit Commission (National Fraud Initiative). Once data is matched Basingstoke & Deanes Borough Council receive a report of any apparent inconsistencies in the corresponding systems. The Fraud team will review these matches and follow up where necessary.

## Working in Partnership

The council undertakes specific fraud drives by working with:

1. The Police
2. The Department for Work and Pensions
3. Inland Revenue
4. Customs and Excise
5. Other councils
6. Other council departments
7. Immigration

While we are committed to the exchange of information with other organisations, either on a case by case basis or through the mechanism of data-matching, we will observe the law on confidentiality at all times.

## Legislation & Governance

All officers and/or members are expected to comply with the relevant legislation, codes of practice and corporate policies, when executing duties in relation to benefit fraud. It is imperative that the following codes, legislation and policies are adhered to in order to succeed in executing the fraud process:

- Code of conduct for employees
- Code of conduct for investigators
- Social Security legislation and related fraud acts
- Housing & council tax benefit regulations
- Data Protection Act 1998
- Human Rights Act 2000
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Basingstoke & Deane Borough Council health and safety policy
- Anti-Fraud Team internal investigation procedures

In addition to this all officers should act under the guidance of any other legislation, corporate policies and codes of practice that are relevant to their duties.

### Roles and consideration of all council employees

Duties and Considerations of all council Employees and Council officers involved in the administration of benefits report to the head of service, details of any property they are renting to tenants, and any benefit claims to which they have some connection.

This may be a claim for benefit where the officer is the landlord, the claimant, a partner, dependent or non-dependant on the application.

Any council officer found to be involved in an offence under the Social Security Administration Act 1992, or any other criminal offence involving claims of benefit, either at this council, any other council, or the Department for Work and Pensions, will be disciplined under our disciplinary procedures, in addition to any prosecution proceedings that may occur.

### Interviews under caution in accordance with the Police & Criminal Evidence Act 1984 (PACE)

All interviews held under caution for suspected benefit fraud offences are held at the council offices (unless there are very exceptional circumstances). In undertaking an investigation we observe the Police and Criminal Evidence Act 1984 Codes of Practice, and all other relevant legislation and codes. In other words, the claimant will be advised of their rights, and evidence will be obtained and secured in accordance with the law.

### Regulation of Investigatory Powers Act (RIPA)

Basingstoke & Deane uses the Regulation of Investigatory Powers Act in certain situations when investigating alleged abuses of the benefit system. This act is known as RIPA and allows the investigation officers to carry out surveillance on those people suspected of benefit fraud offences. All authorisations for RIPA are approved by Corporate Directors or the Chief Executive.

### The Human Rights Act (HRA)

All investigation officers are trained in the implications of the Human Rights Act in respect of its impact on investigations. All investigations undertaken are carried out in accordance with the act.

### The Data Protection Act (DPA)

The council is correctly registered under Purpose 058 of the Data Protection Act 1998. Where required, we will use section 29 and section 35, in order to protect those organisations that may supply information to us in an investigation of fraud.

### Fraudulent Actions by landlords

Unfortunately, there are a few landlords who defraud, or attempt to defraud, the housing benefit system. Therefore, we expect anti-fraud investigation officers to use their powers under the Housing Benefit (Supply of information from landlords) Regulations 1997, and other relevant legislation to obtain information from landlords. These powers must be used reasonably and in compliance with the regulations. Landlords will be expected to comply with requests for information, or they may be prosecuted.

## Training

We are committed to ensuring our Investigation officers are fully trained to carry out the functions of their job. We also ensure they receive training in all relevant changes to legislation, and undertake specific refresher training in certain aspects of their job.

## Royal Mail Do Not Redirect

A large amount of money is lost nationally each year through the redirection of benefit cheques after a claimant has moved from the property for which they were receiving benefit. We subscribe to the 'Royal Mail Do Not Redirect Service'. All cheques and correspondence are sent out in specially marked envelopes. They have a green chevron border and clearly written on the front 'Do not redirect – return to sender'. This service stops the redirection of all cheques, as well as highlighting undeclared absences or 'gone aways'

## Anti Fraud Hotline

The council maintains and advertises an anti-fraud hot line to enable members of the public to report their concerns. This is private and confidential. The Investigation officers will investigate all calls they deem appropriate. The hot line is advertised in council publicity as well as the local press.

## Publicity

We actively seek to publicise our benefit service. Our aim is to encourage those who feel they have an entitlement to benefit to apply, and discourage those who might seek to defraud the system. All publicity aims to inform the public we have an investigation team whose purpose is to investigate fraud and potential fraud, and to take legal action against those defrauding the council.

## The Application form

The housing benefit/council tax benefit application form is reviewed regularly to ensure that it:

1. Asks plain language questions to help the claimant complete the form
2. Contains up to date information and legislation
3. Conforms to current best practice

The claim form makes it clear to the claimant the information they must provide to verify their claim for benefit. It also makes it clear what information must be supplied if, and when, the claimant's circumstances change. In addition, the claim form makes the claimant aware of their responsibility to supply the correct information and the consequences if they fail to do so.

Mandatory questions must be completed by the claimant. If the claim form is returned to us without the completion of one or more of the mandatory questions, or without the required evidence to verify the claim, we will write to the claimant requesting the information.

### Verification of Housing / Council Tax Benefit Claims

Basingstoke and Deane Borough Council's Housing & Benefits Business Unit operate clear procedures for the verification of all information which must be verified before benefit is paid.

All verification requirements are in line with legislation and best practice.

People claiming Housing and/or Council Tax benefit may be visited in their homes to verify information relating to their claim for benefit. The visits are used to ensure that all claimants' circumstances remain the same or, alternatively, to provide a further opportunity for the claimant to inform us of a change in circumstances. Prompt reporting of a change is required by law. It will prevent further overpayment and unnecessary hardship to the claimant.

Sometimes claims can be referred to the anti-fraud investigation officers for further verification. This may include contacting third parties or interviewing them under the Social Security Administration Act 1992, in line with the Police and Criminal Evidence Act 1984.

Obtaining evidence will be undertaken in compliance with the Data Protection Act. Although claims for housing and council tax benefit will be subject to close scrutiny, we are committed to delivering benefit within the government's time scales. All staff receive, at least annually, fraud awareness training.

### Action on Overpayments of benefit

In certain circumstances benefits will be paid to people who are not entitled to them. The most common cause of this is when a claimant does not declare a change in circumstances to the council. This may have been done with, or without, prior planning.

We will consider the circumstances of each case. If we consider the claimant could reasonably have been expected to know that the failure to report the change would cause an overpayment of benefit, we will consider sanctioning the claimant.

### Action on Overpayment of Benefit to landlords

Payment of benefit is often made directly to landlords, either at the request of the claimant or where the claimant is in arrears with their rent. In some cases, landlords falsify claims, or assist claimants to falsify claims for benefits. Landlords who commit an offence under the Social Security Administration Act 1992 s.111a may be prosecuted by the council. Landlords who are receiving benefit directly are also obliged to report any changes in their tenant's circumstances. When landlords fail to do this, they may be overpaid benefit. We make landlords aware of their duty to report known changes. The overpaid benefit may be recovered either directly from ongoing payments of benefit to the landlord, or by civil recovery through the courts.

We will use all powers granted to us by the Secretary of State for Social Security under the Social Security Administration (Fraud) Act 1997. Namely, the powers of inspection and the power to obtain information from landlords.

### Sanctions

The council takes benefit fraud seriously and where applicable will impose a sanction. The sanctions available to the investigating officers are:-

- Simple caution. This can be considered where the claimant has fully admitted the offence/s at the interview under caution. The caution is recorded with the Department for Work & Pensions and the council. If the claimant commits any further offence then they will generally have their case passed direct to the legal departments at the Department for Work & Pensions or council for consideration of prosecution.
- Administrative Penalty. This is 30% charge based on the overpayment total. The claimant signs an agreement to accept the Administrative Penalty. If the Administrative Penalty is declined the case may then be forwarded to the legal department for consideration of prosecution.
- Prosecution. In certain cases the case is passed to the council's legal team who will then consider the Investigation officers recommendations for prosecution.

Careful consideration is given when taking further action against anyone who has committed fraud in order to obtain benefit. All the specific details of each case will be taken into account and measured against the evidential and public interest test stated in the Code for Crown Prosecutors. Any case failing to meet the requirements associated with either test should not be considered suitable for a sanction or no further action will be taken.

## In Summary

The council is committed to ensuring that people should get all benefits to which they are entitled.

The council will act against those people who systematically obtain benefits to which they are not entitled.

Any benefit obtained to which a claimant is not entitled must be repaid in full to the council. However, we will take care not to place anyone into financial hardship.

The council will respect the civil liberties of all people involved in an investigation of alleged fraud, balancing their right to privacy against the necessity to protect public funds.

## Equalities Impact statement

Benefit fraud is a criminal offence and as such the local authority has a statutory duty to protect public revenue. The intended beneficiaries of this policy are therefore taxpayers and the general public as a whole.

The Counter fraud unit will always act with respect to pertinent legislation and without prejudice when executing its procedures and policies.