

# AUDIT COMMITTEE

27 SEPTEMBER 2007

## OUTCOMES OF HOUSING BENEFIT COUNTER FRAUD INVESTIGATIONS

Report from: Internal Audit

Author: Richard Humphrey, Audit Services Manager

### **1 Summary**

1.1 To inform members of progress in investigating allegations of housing and council tax benefit fraud during the period April to July 2007.

### **2 Decision issues**

2.1 Following the Council's decision to establish this committee, it is within the remit of this committee to take decisions regarding accounts and audit issues.

### **3 Background**

3.1 Medway Council has had a sanction policy since 2002 following changes to the way benefit investigations should be conducted. These changes resulted in a more rigorous investigative standard being adopted which lead to specific outcomes, known as sanctions. Namely, that local authorities should consider the use of one of the following courses of action following a successful investigation:-

- Prosecution
- Issue of a caution
- Issue of an administrative penalty (fine).

### **4 Outcome of Benefit Investigations**

4.1 In the first quarter of the 2007/08 financial year, there have been 16 successful prosecutions, 6 unsuccessful prosecutions and the issue of 15 cautions and 2 administrative penalties. These sanctions are detailed at Annex A.

### **5 Financial implications**

5.1 There are no financial implications arising from this report.

## **6 Legal implications**

6.1 There are no legal implications arising from this report.

## **7 Recommendations**

7.1 Members to note progress in investigating benefit fraud in accordance with the approved sanction policy.

## **8 Background papers**

8.1 None.

### **Lead officer contact**

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Prosecutions completed April – July 2007							
Investigation case number	Fraud Type	Fraudulent overpayment £	Court	Court sentence and date	Overpayment o/s as at court sentencing date £	Current Overpayment outstanding £	Comment
8397	Related to landlord	4,824	Medway Magistrates Court	12 months conditional sentence & £150 costs  30/04/07	4,201	3,378	Claimant failed to attend IUC interview. Deductions are being made from DWP paid benefits.
8635	Non disclosure of assets (properties) and capital.	1,382	Medway Magistrates Court	12 months conditional sentence & £750 costs  15/07/07	Nil	Nil	See also case 9140 below
9140	Non disclosure of assets (properties) and capital.	Nil	Medway Magistrates Court	12 months conditional sentence & £750 costs  15/07/07	Nil	Nil	Spouse prosecuted.
8652	Non disclosure of partner and partner's earnings.	9,902	Medway Magistrates Court	130 hours community service  20/06/07	1,494 4,750 3,658	1458 4,750 3,658	Alleged partner was unsuccessfully prosecuted. See case 9065. The 1 <sup>st</sup> overpayment is being recovered from claimant current entitlement, the further 2 debts have been passed to an external firm for recovery action.

Prosecutions completed April – July 2007							
Investigation case number	Fraud Type	Fraudulent overpayment £	Court	Court sentence and date	Overpayment o/s as at court sentencing date £	Current Overpayment outstanding £	Comment
8817	Non disclosure of partner and partner's earnings.	7,520	Medway Magistrates Court	12 months conditional sentence & £150 costs  12/03/07	Nil	Nil	
8848	False tenancy and non disclosure of earnings	1,597 (+ 954 from previous overpayment)	Medway Magistrates Court	12 months conditional sentence & £150 costs  01/03/07	2,300	2,175	See also case 9189. Claimant making monthly payments of £25.00 by standing order
9189	False tenancy and non disclosure of earnings	Nil	Medway Magistrates Court	12 months conditional sentence & £150 costs  01/03/07	Nil	Nil	Spouse prosecuted.
8953	Non disclosure of partner.	16,847	Medway Magistrates Court	120 hours community service & £100 costs  17/05/07	16,847	16,847	Debt has been passed to external firm for recovery action.
8990	Non disclosure of non-dependant and partner.	16,022	Medway Magistrates Court	50 hours community service & £100 costs  30/04/07	15,512	15,400	Monthly arrangement of £50.00 being increased to £70.00 as Ctax arrears have been paid

Prosecutions completed April – July 2007							
Investigation case number	Fraud Type	Fraudulent overpayment £	Court	Court sentence and date	Overpayment o/s as at court sentencing date £	Current Overpayment outstanding £	Comment
9070	Not resident at property which had been sub let	928	Medway Magistrates Court	12 months conditional sentence & £150 costs  05/04/07	510	144	Overpayment is recovering from current entitlement
9302	Supplying false tenancy.	Nil	Medway Magistrates Court	12 months conditional sentence & £150 costs  24/05/07	Nil	Nil	
9527	Non disclosure of earnings	2,428	Medway Magistrates Court	12 months conditional sentence & £50 costs  25/06/07	2,102	2080	Arrangement of £10.00 a month to be reviewed again in 3 months
8478	Non disclosure of earnings and capital.	8,349  (DWP overpayment £13,900)	Maidstone Crown Court	200 hours community service & compensation order to repay £150pcm to Medway Council  08/06/07	7,250	7,250	Joint investigation with DWP and prosecuted by them. No further payment since £50.00 received 25.04.07 overpayments to contact court re any further payments made

Prosecutions completed April – July 2007							
Investigation case number	Fraud Type	Fraudulent overpayment £	Court	Court sentence and date	Overpayment o/s as at court sentencing date £	Current Overpayment outstanding £	Comment
8521	Non disclosure of partner	3,911 (+8,849 overpayment)	Medway Magistrates Court	40 hours community service & £75 costs  08/03/07	12,343	12,128	Joint investigation with DWP and prosecuted by them. Active claim overpayment recovering by weekly reclaim
8629	Non disclosure of partner	23,445  (DWP overpayment £18,476)	Maidstone Crown Court	12 months suspended for 18 months  13/04/07	22,382	22,152	Joint investigation with DWP and prosecuted by them. See also case 8981 below. Active claim overpayment is being recovered by weekly reclaim. Claimant requested an invoice so she could also make direct payments.
8981	See above	Nil	Maidstone Crown Court	12 months suspended for 18 months  13/04/07	Nil	Nil	Joint investigation with DWP and prosecuted by them. Claimant's partner prosecuted.

<b>Unsuccessful Prosecutions April – July 2007</b>		
<b>Investigation Case number</b>	<b>Type</b>	<b>Comment</b>
8831 & 9263 Claimant and alleged partner	Non disclosure of partner	Found not guilty by JP's. Although statements made by the claimant at interview were said to be contradictory the court was of the opinion that the prosecutor had not proved beyond all reasonable doubt that the defendant was aware that the alleged partner was using her address and living with her.
8838	Non disclosure of partner	<p>For part of the HB claim period, the claimant was in receipt of income support (IS). Following the investigation, a DWP decision maker decided that IS should be withdrawn. The claimant appealed against this decision and in the appeals process, Medway Council were not informed of the date of the appeal or invited to attend. The appeal was held without Medway Council's view being expressed. Counsel's opinion was:</p> <ul style="list-style-type: none"> <li>• "Because the appeal related to Income Support the DWP were the lead agency and it appears that the Council had little or no real information about or involvement with the proceedings, and indeed they were not made aware of the decision until some time after the decision. The Council subsequently requested a Statement of Reasons. A request that the decision be set aside, setting out a number of factual matters which raised questions about the accuracy of information provide by the defendant and alleged partner in their evidence/submissions to the Appeals Tribunal, was refused and, it seems that the Council has now exhausted the avenues of challenge. I am surprised by the Tribunal's assessment and apparent acceptance of the Defendant's evidence (even allowing for the fact that the DWP chose not to have a Presenting Officer putting the evidence from the DWP and the Council, and so the Defendant's evidence was not tested by cross-examination) but the result is that the Council, in my view, has no alternative other than to offer no evidence because there is no realistic prospect of a conviction."</li> </ul> <p>The case was subsequently withdrawn.</p>
9065	Knowingly allowing a false claim	See case 8652 successful prosecution. Alleged partner was found not guilty of knowingly allowing claimant to make false statements. Although the Magistrates stated that they were in no doubt that they lived together and that he both knew of the benefit regulations and he knew of the claimant's HB claims, it had not been proved beyond a reasonable doubt that he knew what exactly what the claimant had put on those forms.
9314	Contrived tenancy	The court heard conflicting evidence concerning the residency of the claimant and concluded that the case had not proved beyond reasonable doubt.
9191	Contrived tenancy	The claimant declined to attend an interview under caution and the case was put forward for prosecution. After issuing the summons, the claimant was sentenced to a term of imprisonment for a non HB offence. It was considered not to be in the public interest to pursue further legal action.

**Cautions, Administrative Penalty Issued  
April – July 2007**

<b>Case Number</b>	<b>Fraud Type</b>	<b>Overpayment £</b>	<b>Comment</b>
8267	Non declaration of partner	1,229	Administrative penalty issued.
9614	Undisclosed capital	2,042	Administrative penalty issued.
8638	Non declaration of partner and partner's earnings	293	Claimant cautioned
8994	Knowingly allowing a false claim	Nil	Partner of claimant in case 8638 cautioned
9109	Non disclosure of earnings	Nil	Claimant cautioned.
9190	Provision of false tenancy agreement	Nil	Landlord cautioned. Claimant prosecuted, see case 8848
9399	Non disclosure of partner	1,670	Claimant cautioned.
9416	Non disclosure of earnings and non disclosure of non dependants earnings	1,534	Claimant cautioned. See also case 9717 below.
9522	Non disclosure of assets (property)	218	Claimant cautioned.
9538	Related to landlord	2,249	Claimant cautioned.
9592	Non disclosure of partner	7,342	Prosecution not pursued due to claimant's health and age. Claimant cautioned. Also see case 9817
9600	Non disclosure of capital	5,386	Prosecution not pursued due to claimant's age. Claimant cautioned.
9677	Non disclosure of partner	1,670	Claimant cautioned.
9706	Non disclosure of partner	686	Claimant cautioned.

<b>Case Number</b>	<b>Fraud Type</b>	<b>Overpayment £</b>	<b>Comment</b>
9717	Claimant's spouse knowingly allowing a false claim	Nil	Linked to case 9416
9797	Non disclosure of income	1,517	Claimant cautioned.
9798	Non disclosure of earnings	368	Claimant cautioned.
9817	Claimant's spouse knowingly allowing a false claim	Nil	Claimant's spouse cautioned.
9819	Non disclosure of partner's earnings	661	Claimant cautioned.