

## **AUDIT COMMITTEE**

**24 MARCH 2009**

### **OUTCOMES OF HOUSING BENEFIT COUNTER FRAUD INVESTIGATIONS**

Report from: Internal Audit

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#### **Summary**

To inform Members of progress in investigating allegations of housing and council tax benefit fraud. This report covers activity since the last report to this committee up to 31 December 2008.

#### **1. Budget and Policy Framework**

1.1 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.

#### **2. Background**

2.1 Medway Council has had a sanction policy since 2002 (revised in 2006) 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).

#### **3. Outcomes of Investigations**

3.1 In the current financial year to 31 December, the investigations team has identified £485,426 of fraudulent overpayments of Housing and Council Tax Benefit and £70,031 of Department of Work and Pensions (DWP) paid benefits. Since the last report to this committee, there have been 17 successful prosecutions, 4 unsuccessful prosecutions and the issue 24 of cautions and 2 administrative penalties. These sanctions are detailed at Appendix A.

3.2 The following table shows the progress of current cases following a decision to prosecute.

<b>As at 28 February 2009</b>	<b>Medway Council's Legal Services</b>	<b>Department of Work and Pensions</b>
Cases put forward for prosecution (note 1)	30	15
Of which		
• court proceedings commenced	12	
• preparing court proceedings of which	17	15
○ waiting for < 1 month	3	1
○ waiting for 1-2 months	9	9
○ waiting for 3-4 months	3	3
○ waiting for 5-6 months	2	
○ over 6 months		2
• awaiting acknowledgement of which		
○ waiting for < 1 month	1	
○ waiting for 1-2 months		
○ waiting for 3-4 months		
○ waiting for 5-6 months		
○ over 6 months		

Note 1 – excludes one case being prosecuted by another local authority.

#### **4. Financial and legal implications**

4.1 There are no financial or legal implications arising from this report.

#### **5. Recommendations**

5.1 Members are asked to note progress in investigating benefit fraud in accordance with the approved sanction policy.

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#### **Background papers**

Prosecution Policy (revised 2006)

Prosecutions completed							
Investigation case number	Fraud Type	Fraudulent overpayment £	Court	Court sentence and date	Overpayment o/s as at court sentencing date £	Current Overpayment outstanding £	Comment
9647	Living together	2,994 (HB) & 350 (CTB)	Magistrates Court	18 months conditional discharge + £75 costs  15/05/08	2,910	2,852	Partner also prosecuted – see 9998 below Recovering over payment from current entitlement
9998	Allowing false statements to be made.	N/A	Magistrates Court	100 hours community service + £75 costs  15/05/08	N/A	N/A	Partner of case 9647 prosecuted
9743	Undisclosed capital	2,117	Magistrates Court	£300 fine + £100 costs  20/06/08	2,059	NIL	Full payment received July 2008
8987	Living together	8,006 (HB) & 1,141 (CTB)	Magistrates Court	12 months Community Order with 40 hours CPO  30/07/08	8,192	7,268	Joint investigation and prosecuted by DWP Recovering over payment from current entitlement
9058	Living together	15,720 (HB) & 2,906 (CTB)	Crown Court	12 months Community Order with 150 hours CPO + £500 costs  11/08/08	11,998 plus further overpayments to make a total debt of £16,197	16,149	Recovering over payment from current entitlement

Prosecutions completed							
Investigation case number	Fraud Type	Fraudulent overpayment £	Court	Court sentence and date	Overpayment o/s as at court sentencing date £	Current Overpayment outstanding £	Comment
9649	Undeclared employment and claiming an incapacity benefit	13,154 (HB) 3,461 (CTB) & 60,418 (DWP)	Crown Court	24 months custodial, suspended for 2 years + 300 hrs CPO. No Costs.  28/08/08	12,789	12,789	Joint investigation and prosecuted by DWP No Current offer of repayment
9884	Living together	759 (CTB)	Magistrates Court	2 years conditional discharge + £100 costs  01/08/08	759	759	Debt passed to external company for collection
9807	False tenancy	4,635 (HB)	Magistrates Court	£530 Fine - No Costs  28/08/08	4,400	4,080	Landlord prosecuted Paying monthly payments of £50 - £60.00
9867	Living together	4,078 (HB) & 589 (CTB)	Magistrates Court	2 years conditional discharge - No costs  02/10/08	3,600	3,100	Joint investigation and prosecuted by DWP Arrangement of £100.00 a month
9361	Undeclared employment and claiming an incapacity benefit	6,636 (DWP)	Crown Court	£5000 fine, 2 yr conditional discharge + £200 costs  08/10/08	n/a	n/a	Joint investigation and prosecuted by DWP

Prosecutions completed							
Investigation case number	Fraud Type	Fraudulent overpayment £	Court	Court sentence and date	Overpayment o/s as at court sentencing date £	Current Overpayment outstanding £	Comment
9705	Undisclosed capital	2,289 (HB) & 565 (CTB)	Magistrates Court	24 months conditional discharge + £200 costs  28/10/08	NIL	NIL	Full repayment received.
9720	Living together	8,293 (HB) & 1,333 (CTB)	Magistrates Court	120 hrs CPO, 10 days education & employment training, 10 days life skills course + £150 costs  23/10/08	9,278	9,278	Joint investigation with DWP. Partner also prosecuted – see 10114 below No offer of payment debt passed to external company for collection
10114	Living together	Nil	Magistrates Court	120 hrs CPO, 10 days education & employment training, 10 days life skills course + £150 costs  23/10/08	N/A	N/A	Joint investigation with DWP

Prosecutions completed							
Investigation case number	Fraud Type	Fraudulent overpayment £	Court	Court sentence and date	Overpayment o/s as at court sentencing date £	Current Overpayment outstanding £	Comment
9878	Living together	2,182 (B) & 705 (CTB)	Magistrates Court	£250 fine + £150 costs 20/11/08	2,013	2,013	Joint investigation and prosecuted by DWP Case passed to external company for collection
9120	Undisclosed capital	1,214 (HB) & 218 (CTB)	Magistrates Court	12 months conditional discharge, £250 compensation, no costs 17/11/08	1,213	1,213	New invoice has been sent to latest address.
9474	Living together	10,267 (HB) & 1,599 (CTB)	Magistrates Court	80 hrs CPO, 10 days education and training + £150 costs 04/12/08	9,721	6,377	Recovering from current entitlement.
9781	Living together	29,352 (HB) & 5,015 (CTB)	Crown Court	9 months custodial suspended 2 years, 150 hrs CPO 12/12/08	28,448	28,304	Joint investigation and prosecuted by DWP Recovering from current entitlement.

<b>Unsuccessful Prosecutions</b>	
<b>Investigation Case number</b>	<b>Comment</b>
10287	Employer did not provide employee information as required by law. Despite reminders, no information was supplied and prosecution action commenced. At court, the defence solicitors offered that his client would provide the information within a short period if the prosecution action was deferred. The information was subsequently provided and prosecution action withdrawn.
9164	Summons issued in June 2006 and court activity commenced in July 2006 but no further action occurred since September 2006. In view of time taken, case withdrawn.
8411	Summons issued in May 2006 and court activity commenced in July 2006 but no further action occurred since August 2006 due in part, to defendant moving away. In view of time taken, case withdrawn.
9301	In October 2007, the prosecution case file (for 2 prosecutions) was passed to the DWP's legal team. After a lengthy period, in which additional information was requested and provided, the file was returned, incomplete and with key evidence missing. The case has since been withdrawn.

<b>Cautions or Administrative Penalty Issued</b>			
<b>Case Number</b>	<b>Fraud Type</b>	<b>Overpayment £</b>	<b>Comment</b>
10350	Undisclosed capital	2,475	Prosecution not considered owing to claimant's ill health. Claimant cautioned
10347	Failure to notify that claimant had vacated property.	2,836	Landlord cautioned
10250	No tenancy exists	Nil	Claimant cautioned
9550	Living together	373	Claimant did not attend IUC and prosecution action commenced. At court, defence solicitor intimated that claimant would accept a caution. Claimant cautioned.
9308	Living together	1,023	Claimant cautioned
9906	Undisclosed capital	Nil	Claimant cautioned
10103	Non disclosure of non dependent	Nil	Claimant cautioned
10198	Related to landlord	Nil	Claimant cautioned
10141	Living together	2,636	Claimant cautioned. Partner also cautioned – see 10352 below
10352	Failing to notify a change of circumstances	Nil	Partner cautioned
10051	Undeclared employment	620	Claimant cautioned



<b>Cautions or Administrative Penalty Issued</b>			
<b>Case Number</b>	<b>Fraud Type</b>	<b>Overpayment £</b>	<b>Comment</b>
10062	Undisclosed assets	3,625	Prosecution not considered due to claimant's domestic situation. Claimant cautioned
9701	Undeclared employment	245	Claimant cautioned
10249	Failing to notify a change of circumstances	Nil	Claimant cautioned – partner cautioned – see 10415 below
10415	Failing to notify a change of circumstances	Nil	Partner cautioned
10286	Undeclared employment	297	Claimant cautioned
10068	Living together	6885	Claimant cautioned. Partner also cautioned – see 10390 below.
10390	Living together	Nil	Prosecution of partner not considered due to potential loss of employment through conviction and then dependent upon benefits. Partner cautioned
10354	Undeclared employment	817	Claimant cautioned
10042	Undeclared employment	366	Claimant cautioned
10439	Dishonestly allowed another to make a false claim	Nil	Cautioned – linked to case 9202 below.
9202	Undeclared partner's employment	642	Claimant cautioned

<b>Cautions or Administrative Penalty Issued</b>			
<b>Case Number</b>	<b>Fraud Type</b>	<b>Overpayment £</b>	<b>Comment</b>
10117	Undeclared employment	304	Claimant cautioned
10020	Undeclared employment	1,938	Claimant cautioned
10256	Undisclosed capital	769	Administrative Penalty issued.
10395	Undisclosed capital	872	Administrative Penalty issued.