

AUDIT COMMITTEE

26 SEPTEMBER 2012

INVESTIGATIONS RELATING TO EXTERNAL FRAUD

Report from: Internal Audit

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Summary

To inform Members of progress in investigating allegations of Housing Benefit & Council Tax benefit fraud and other non-benefit related external fraud. This includes allegations of Blue Badge and Housing Fraud. This report covers activity during the first quarter of 2012/13, ending 30 June 2012.

1. Budget and Policy Framework

- 1.1 It is within the remit of the Audit 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 "Simple Caution"
- Issue of an Administrative Penalty (fine)

- 2.2 The Welfare Reform Act received Royal Assent on 8 March 2012. It contained a number of measures to better prevent, detect, and punish fraud and error in the benefits and tax credits system. The main changes are shown at **Annex A**.

3. Outcomes of Benefit Investigations

- 3.1 The total value of benefits related fraudulent overpayments identified by the Corporate Anti Fraud Team (CAFT) in 1st Qtr of 2012 was £308,000, comprising £196,000 Housing and Council Tax Benefit and £112,000 of Department for Work and Pensions (DWP) paid benefits.
- 3.2 A comparison against the 1st quarter for 2011/12 shows a decrease in identified Benefit overpayments. 2011/12 total of £466,000, consisting £204,000 Housing and Council Tax Benefit and £262,000 DWP Benefits.
- 3.3 There are a number of factors that may have caused a general reduction in the value of identified overpayments, including more robust data-matching namely: - active participation in the Audit Commission's National Fraud Initiative (NFI), the DWP Housing Benefit matching Service (HBMS) and the ATLAS project (automated notifications of changes in Tax Credits and DWP benefits). All these seek to identify changes in circumstances at a much earlier date, thus reducing the incidents and values of overpayments of benefits.
- 3.4 Whilst there has been a reduction in the value of identified overpayments there has been a significant increase in the number of fraud referrals received since November 2011 (largely as a consequence of a new Data Matching exercise, financed by the DWP). Regular data match exercises identified anomalies between benefit records and information held by Experian Credit Reference Agency. The scheme gives the Investigation team limited but instant access to Experian data via their "Investigator-On-Line" product.
- 3.5 In the 1st Qtr of the 2012/13 financial year there were 7 successful prosecutions for benefit offences and these cases are detailed at Annex B. There were 3 Cautions but no Administrative Penalties.
- 3.6 The following table shows the progress of current cases following a decision to prosecute.

As at 05/09/12:	Medway Council's Legal Services	Department for Work and Pensions
Cases put forward for prosecution	14	23
Of which <input type="checkbox"/> court proceedings commenced	12	7
<input type="checkbox"/> preparing court proceedings	2	(see note below)
<input type="checkbox"/> awaiting acknowledgement or preparation	0	(see note below)

Note: these are joint investigations and many of these cases are passed to DWP for prosecution via the Crown Prosecution Service (CPS). Consequently, it is DWP

that receives communications from CPS. Therefore, Medway Council does not hold precise dates to analyse these cases.

4. Blue Badge Fraud

- 4.1 Work has commenced on establishing an investigation framework around Blue Badge (BB) fraud and misuse.
- 4.2 The Fraud Manager has provided advice around modifications to the Medway BB application form and designing a robust process to identify, investigate and resolve allegations of misuse. Work is ongoing around referral forms, process maps and training.
- 4.3 The first referral was received by the Corporate Anti-Fraud Team in November 2011, since which there has been a steady flow of referrals. The majority emanate from members of the public and relate to persons misusing badges belonging to friends or relatives.
- 4.4 The first allegation has recently been accepted for prosecution and relates to misuse of a BB of a deceased relative. A similar successful prosecution by Southend Council recently resulted in the BB abuser pleading guilty to two counts of Fraud and receiving a £400 fine. Public reaction to this prosecution was extremely positive.
- 4.5 Progress on the design process and outcomes of BB Badge fraud will be reported at future Audit Committees.

5. Housing Fraud

- 5.1 The Corporate Anti Fraud Team (CAFT) are continuing to work with the Housing Team in relation to individual allegations of Housing fraud.
- 5.2 Housing are currently undergoing a major reorganisation and the Fraud Manager is engaging with the Housing Manager to ensure the redesign of the service includes adequate safeguards and processes to deal with allegations of fraud.
- 5.3 Procedures and policies are being developed, in line with the Department for Communities and Local Government (DCLG) guidance provided in their 2010 publication "Tackling unlawful subletting and occupancy: Good practice guidance for social landlords".
- 5.4 A recent training event, hosted by the Local Authority Investigation Officers Group, was attended by staff from the Medway Investigation and Housing teams. The Audit Commission provided an overview of the extent and nature of Housing Fraud whilst valuable guidance was provided by the Chartered Institute of Housing, "Making Best Use of Stock" team.
- 5.5 Progress on the design process and outcomes of Medway Housing fraud will be reported at future Audit Committees.

6. Risk Management, Financial and Legal implications

- 6.1 There are no risk management, financial or legal implications arising from this report.

7. Recommendations

- 7.1 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)

Welfare Reform Act 2012 – Changes to benefit sanctions

- 2.2.1 Administrative Penalties** - A significant change to the way in which Administrative Penalties (Adpens) are calculated and offered. The new tougher Adpen will be a minimum of £350 or 50% of the overpayment whichever is greater (up to a maximum of £2,000). The Adpen can also be offered where there is no overpayment (i.e. an offence has been committed but the fraud is stopped before an overpayment occurs). It can be recovered at the higher “fraud” recovery rate (currently £17.75 as opposed to £10.65 for claimant error overpayments). The “Cooling-off” period before acceptance is considered binding is reduced from 28 days to 14 days. The changes came into effect from 8 May 2012 relating to offences occurring wholly on or after that date.
- 2.2.2 Loss of Benefits** - Changes to the “Loss of Benefit” provisions, expected to come into force from April 2013: -
- The existing loss of benefit sanction period of 4 weeks will be applied to all benefit offences that result in the new financial penalty.
 - All 1st convictions for benefit fraud to be subject to an extended disqualifying period of 13 weeks, except for cases of organised fraud where DWP propose an automatic 3 year benefit sanction.
 - The existing loss of benefit sanction for people convicted of a 2nd benefit offence within a 5 year period (Two Strikes) to be extended to 26 weeks.
 - A new loss of benefit sanction to be introduced for people convicted of a 3rd or further benefits offence within a 5 year period with a disqualification period of 3 years.
 - The proposed Loss of benefit sanctions also allows for the disqualifying period (except for administrative penalties) to be escalated based on the number of offences.
 - The offences must be committed within a 5 year time period.
 - This focuses on the number of offences and captures repeated criminality.
- 2.2.3 Cautions** - DWP no longer offer Cautions as an alternative to the Adpen or prosecution, where the offence is committed after, or spans, 1 April 2012. Local Authorities will still be able to offer cautions, where appropriate, until the introduction of the Single Fraud Investigation Service.
- 2.2.4 Civil penalties** - The Welfare Reform Act also introduces a Civil Penalty which can be imposed by DWP and Local Authorities on claimants who negligently make incorrect statements without taking reasonable steps to correct them, or claimants who fail, without reasonable excuse, to provide information or to disclose changes in their circumstances, in both cases resulting in an overpayment of benefit. It will only apply where the overpayment period falls wholly after the commencement of the provisions and will not apply to cases of benefit fraud. The amount of the civil penalty will be prescribed in regulations at £50. The current intention is to bring the Civil Penalty into effect from October 2012. Whilst the enforcement of the Civil Penalty will be mandatory for Department for Work and Pensions it is discretionary for Local Authorities. The adoption of the policy is being considered by Medway Benefits Service.

Prosecutions Completed during the 1 st Qtr 2012/13 – Benefit Investigations					Annex B
Case ref.	Fraud Type	Fraudulent O/P £	Court	Court sentence and date	Comment
31830 / 11362	LT	6,386.89	Chatham Magistrates	13/04/12 - 12 month community order, supervision, unpaid work for 150 hrs & AAA Hsg Adviser for 4 sessions. Costs of £250 to be paid through benefits.	HB debt passed to Rundels Bailiffs 20/04/12 = £7,086. Council Tax Liability Order issued for £2,150.81.
1006622 / 10662	LT	99,786.76	Maidstone Crown Court	15/05/12 - 100hrs Community Service. Prospect Programme for 6mths. No costs.	HB balance = £40,979.67, being recovered from ongoing benefit at the rate of £17.75pw. Council Tax Liability Order issued for £3,232.04.
1041993 / 12416	LT	3,030.46	Chatham Magistrates	17/04/12 - 12mths Community Order, 100hrs unpaid work. Costs of £85.	HB balance of all O/P benefit = £3,480.33, being recovered from ongoing benefit at the rate of £18.60pw. Council Tax – total liability outstanding is £420.99. An arrangement has been made to repay this at the rate of £84pcm starting Sept 2012.
85588 / 11983	WC	7,061.10	Chatham Magistrates	19/06/12 - Found not guilty.	HB balance of £5,400. No current award of benefit. Council Tax – Liability order raised for current outstanding debt of £3,301.40. Correspondence received 29/08/12 indicates she intends entering into an Individual Voluntary Arrangement (IVA).
RI1628 / 10822	LT	7,596.26	Chatham Magistrates	19/06/12 – 50hrs unpaid work. Costs of £100.	HB balance of £6,761.81, being recovered from ongoing benefit at the rate of £17.75pw. Council Tax – Liability order raised for current outstanding debt of £4,297.24.

1055252 / 12238	LT	5,830.43	Chatham Magistrates	25/06/12 – 98days imprisonment, suspended for 1yr. Along with a 12mth Supervision Order and 3mth Curfew between 10pm – 7am.	HB balance of £4,481.60. No current claim &/or liability for C/T. Final notice sent to last known forwarding address 09/07/12. Council Tax – Current outstanding debt of £1,688.38. Attempting to trace since 30/05/12, if unsuccessful it is possible that the debt may be written-off.
1044880 / 12237	LT	15,019.93	Chatham Magistrates	25/06/12 – 6mths imprisonment suspended for	HB balance of £13,853.14. Council Tax – Liability order raised current outstanding balance of £2,399.47. Recovery of both debts to be attempted at new address (outside Medway), identified via DWP records on 05/09/12.

Cautions or Administrative Penalty Issued in 1 st Quarter 2012/13				
Case Number	Fraud Type	Overpayment £	Adpen £	Comment
1045257 / 12092	Failure to declare capital in excess of £16K.	1,936	N/A	Cautioned – 27/04/12
1040644 / 12525	Working & claiming	2,126.16	N/A	Cautioned – 04/05/12
1042688 / 12140	Working & claiming	1,523.00	N/A	Cautioned – 04/05/12
N/A	N/A	N/A	N/A	Adpens

Key: -

Clmt Claimant

LT Living together as husband & wife

WC Working & claiming

CAP Failure to declare capital

ND Non Dependent

CofC Failure to report a change in circumstances

QB9 Employer prosecuted for failing to supply information requested under Social Security Legislation.