

AUDIT COMMITTEE

20 DECEMBER 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 second quarter of 2012/13, ending 30 September 2012.

1. Budget and Policy Framework

- 1.1 It is in 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 08/03/12 and introduced a number of measures to better prevent, detect, and punish fraud and error in the benefits and tax credits system, one of which was the discretion to offer Civil Penalties from October 2012. The new provisions allow for the application of a £50 penalty when claimants are found to be negligent and fail to take reasonable steps to take correct an error on their claim, resulting in an overpayment of benefit. The penalty would be added to the overpayment and recovered from ongoing benefit, from earnings or through the courts.

- 2.3 Medway have not adopted the Civil Penalty scheme due to various issues including, but not limited to, sufficiency of information, establishing consistency in decision making, dealing with appeals & cost of recovery.
- 2.4 The Anti Fraud and Corruption Policy, updated 17 August 2012, forms part of the Council's Constitution and sets out the Council's commitment to ensuring the opportunity for fraud and corruption is reduced to the lowest possible risk.

3. Outcomes of Benefit Investigations

- 3.1 The total value of benefits related fraudulent overpayments identified by the Corporate Anti Fraud Team (CAFT) in 2nd Qtr of 2012/13 was £185,000, comprising £130,000 Housing and Council Tax Benefit and £55,000 of Department for Work and Pensions (DWP) paid benefits.
- 3.2 A comparison against the 2nd Qtr for 2011/12 shows Benefit overpayments for the same period were £180,000, consisting £148,000 Housing and Council Tax Benefit and £32,000 DWP Benefits.
- 3.3 In the 2nd Qtr of the 2012/13 financial year there were 12 successful prosecutions for benefit offences and these cases are detailed at Annex A. There was 1 Caution and 1 Administrative Penalty.
- 3.4 The following table shows the progress of current cases following a decision to prosecute.

As at 26/11/12:	Medway Council's Legal Services	Department for Work and Pensions
Cases put forward for prosecution	14	22
Of which		
• court proceedings commenced	11	11
• preparing court proceedings	3	(see note below)
• 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. **Single Fraud Investigation Service (SFIS) – Current implementation timetable.**

- 4.1 The Committee has been kept informed of the planned introduction of SFIS and a DWP briefing note was shared with the Audit Committee in September, but no timetable was provided at that time. Set out in the table below is the current implementation timetable:

Key dates	Event	Effect on Medway
Nov 2012 – March 2014	Pilots (currently 4 LAs) and Pathfinders will be established, run and evaluated.	No change
April 2013	All work on Benefit Fraud investigation activity in HMRC, DWP & LAs will be branded SFIS.	CAFT continue to operate in same way, no difference for claimants or to LA / DWP joint working arrangements.
April 2013	Local Council Tax Support scheme replaces Council Tax Benefit.	CAFT will assume and retain sole responsibility for investigating Council Tax Support fraud.
April 2013- March 2014	<p>DWP will work with LAs to gain understanding of how many staff will be working on benefit fraud investigations.</p> <p>DWP will review LA's powers to prosecute benefit fraud and eventually transfer the task to Crown Prosecution Service.</p>	<p>No immediate change. During this period CAFT will seek to diversify its efforts and resources across the organisation to identify and establish robust procedures for investigating other types of fraud committed against the Council.</p> <p>The eventual removal of LA powers to prosecute will restrict the authority's discretion and may necessitate an impact assessment on resources in Legal Services Team.</p>
April 2014 - March 2015	SFIS rolled out nationally.	<p>Medway commit individual staff to SFIS.</p> <p>Selected staff remain employed by Medway but adopt SFIS policy & procedures for investigation of Social Security Benefits and Tax credits fraud.</p>

5. Council Tax Support

- 5.1 The table below sets out the Department for Communities and Local Government's expectation of when regulations will be laid before Parliament regarding the abolition of Council Tax Benefit and the new localised scheme come into force.

Key dates	Event	Effect on Medway
31 October 2012	Local Government Finance Act received Royal Assent.	Provided the legal framework for the introduction of localised Council Tax Support scheme.
Nov 2012 – Feb 2013	Regulations will be laid before Parliament.	Regulations will provide Medway with the framework for the administration of the new scheme, including powers to investigate fraud.
Nov 2012 – March 2013	<p>DWP Fraud & Error Programme committed to working with DCLG and the "Devolved Administrators" (the Local Authorities) to look at:</p> <ul style="list-style-type: none"> - How SFIS & LA Fraud teams can work together; - Which data can be shared, with whom, and for what purposes; - The extent to which work in these areas may be legitimately used to assist in the wider remit covered by LA fraud teams; - How to manage a prosecution that covers a number of offences. 	There will be instances where individuals are suspected of committing fraud against a number of areas. Once established the regulations and guidance may provide CAFT with the means to conduct investigations for both SFIS and the Local Authority.
1 April 2013	Council Tax Benefit (CTB), abolished under Welfare Reform, will cease and the new localised scheme will come into force.	<p>CTB claims for period up to 31 March 2013 will continue to be accepted and past fraud will continue to be investigated for some time.</p> <p>Detection, investigation and prosecution of offences committed under the localised scheme will remain the responsibility of Medway CAFT.</p>

6. Blue Badge Fraud

- 6.1 Work has commenced on establishing an investigation framework around Blue Badge (BB) fraud and misuse.
- 6.2 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. This includes drafting scripts for use by Customer Contact team when taking referrals from members of the public.
- 6.3 The first allegation received by the CAFT has recently been successfully prosecuted. On 14 November 2012 the offender pleaded guilty and was convicted of one offence of dishonestly making a false representation, contrary to the Fraud Act 2006. He received a 12 month conditional discharge with £150 costs.
- 6.4 Early indications are that two further investigations are likely to lead to either prosecution or the issue of a Caution.

7. Housing Fraud

- 7.1 The CAFT continues to work with the Housing Team in relation to individual allegations of Housing fraud.
- 7.2 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", plus guidance and training provided by the Chartered Institute of Housing, "Making Best Use of Stock" team.
- 7.3 There have been delays in establishing Housing Fraud policy and procedures during an ongoing reorganisation of the Housing Team management structure.
- 7.4 Audit Commission annual publication "Protecting the Public Purse" was issued November 2012 and supports Local Authorities in their efforts to combat Housing Fraud.
- 7.5 The Prevention of Social Housing Fraud Bill is progressing and is due for second reading in the House of Lords on 30 November 2012. This will create offences and make other provisions relating to sub-letting and parting with possession of social housing. It will also provide Local Authorities with greater powers to tackle social housing fraud.

8. Risk Management, Financial and Legal implications

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

9. Recommendations

- 9.1 Members are asked to note progress in investigating benefit and other external fraud in accordance with the approved Anti Fraud & Corruption policy.
- 9.2 Members are asked to note the updates regarding the implementation of SFIS and the Localised Council Tax Support Scheme and the impact on Medway CAFT.

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Background papers

Sanction Policy (revised 2006)

Anti-Fraud & Corruption Policy (updated August 2012)
<http://www.medway.gov.uk/pdf/5.08%20-%20Anti%20Fraud%20and%20Corruption%20Policy.pdf>

Prosecutions Completed during the 2nd Qtr 2012/13 – Benefit Investigations					
Case ref.	Fraud Type	Fraudulent O/P £	Court	Court sentence and date	Comment
1054093 / 12203	LT	2,229.87 (HB/CTB) 1,147.50 (IS)	Chatham Magistrates	2 Year Conditional Discharge	HB balance = £1,874.88. Clmt absconded but traced to a new address on 23/11/12. Final notice issued. CT balance = £356.94 – Reminder issued 08/11/12.
1017834 / 12498	Cap	4,300.13 (CTB)	Chatham Magistrates	24 month Conditional Discharge and ordered to pay £500 costs.	Overpaid CTB repaid in full on 20/02/12.
WA3597 / 12490	WC	1,618.48 (HB/CTB) 1,099.16 (IS)	Chatham Magistrates	24 month conditional discharge. Costs of £200	Arrangement made in June to repay HB debt at £6.96pw. After 2 instalments failed to keep to arrangement. O/P team currently tasked to complete a review of outstanding failed arrangements which will encompass this O/P.
78912 / 11929	LT & Non Dep	522.31 (HB/CTB) 6,477.57 (IS)	Chatham Magistrates	Found guilty of all 4 offences. Sentenced to pay a fine of £66 for each offence (£264) plus a £15 Victim Surcharge. Costs of £200 were awarded.	HB debt has been recovered in full from ongoing benefit entitlement.
1018584 / 11834	WC	960.84 (HB/CTB)	Chatham Magistrates	12 month conditional discharge, with £100 costs.	Clmt no longer resident in Medway. Currently maintaining arrangement to repay HB O/P at £50pcm plus Council Tax debt at rate of £50pcm.
1052891 / 12163	LT	2,196.73 (HB/CTB) 3,352.95 (IS)	Chatham Magistrates	Community Work Order.	£666.26 of the £1,830.58 HB debt has been recovered from ongoing benefit at a rate of £17.75pw. Recovery action continues.
1053675 / 11962	WC	494.16 (HB) 420.70 (JSA)	Chatham Magistrates	Pleaded Guilty at last minute. Fined £125 on each of the 2 offences plus £15 Victim Surcharge and £679.50 in costs. To be paid within 28 days.	Clmt declined the offer of Cautions for the Medway and DWP offences. He initially pleaded not-guilty but subsequently entered a guilty plea. Balance of HB O/P currently O/S £62.16. Being recovered from ongoing benefit at £5pw.

1039649 / 12067	LT	17,600.09 (HB/CTB) 10,673.52 (IS / JSA)	Chatham Magistrates	12 weeks imprisonment suspended for 24 months, 250 hours unpaid work, costs £150.	Current HB debt outstanding = £9,703.36. Clmt is no longer in receipt of benefits, so unable to make an attachment. Debt currently being repaid at rate of £10pcm.
1025277 / 11646	Inc	739.11 (HB/CTB)	Chatham Magistrates	12 month conditional discharge, with £250 costs.	Clmt failed to attend Adpen appointment. Initially elected trial by Jury but subsequently heard in Mags court by a District Judge. Initially entered a not-guilty plea but changed to guilty day before trial.
1044097 / 12208	Cap	14,599.27 (HB/CTB) 6,477.66 (JSA)	Chatham Magistrates	16 wks imprisonment suspended for 12mths. Supervision 12mths. Alcohol treatment 6mths. Costs £85	Prior to attending court clmt repaid £6,000 of the £12,061.69 HB debt in one lump sum. Subsequently his offer to repay balance at rate of £30pcm was declined. To date one further pmt of £30 was received (after O/P Team issued a "Final Notice"). Recovery action continues.
1054350 / 12658	LT	9,364.39 (HB/CTB) 7,932.60 (IS)	Chatham Magistrates	Sentenced to 12 month Community Order with 150 hours unpaid work.	£426 of the HB O/P (£7,932.75) has been recovered from ongoing benefit at the rate of £17.75pw. This arrangement is likely to continue whilst clmt continues to receive HB.
1036406 / 12489	CofC	6,649.70 (HB/CTB) 4,747.00 (IS)	Chatham Magistrates	120hrs unpaid work community order.	£284.72 of the HB O/P (£5,244.72) has been recovered through an arrangement at rate of £40pcm. Arrangement continues.

Cautions or Administrative Penalty Issued in 2nd Quarter 2012/13				
Case Number	Fraud Type	Overpayment £	Adpen £	Comment
48682 / 12476	Cap	766.34	N/A	Cautioned – 17/07/12
1058938 / 12445	LT	3,010.03	696.17	Adpen – Accepted 18/07/12

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

Inc Failure to declare income

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

Note re costs – Medway no longer receives details of Costs awarded where Crown Prosecution Office take proceedings on behalf of DWP / Medway Council.