

AUDIT COMMITTEE

11 MARCH 2010

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 during the quarter ending 31 December 2009.

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 this financial year to 31 December 2009, the investigations team has identified £400,274 of fraudulent overpayments of Housing and Council Tax Benefit and £418,787 of DWP paid benefits.

- 3.2 In the quarter to 31 December, there have been 13 successful prosecutions, 2 unsuccessful prosecutions, 4 cautions and 2 administrative penalties issued. These sanctions are detailed at Annex A.
- 3.3 The following table shows the progress of current cases following a decision to prosecute.

As at 18 February 2010	Medway Council's Legal Services	Department for Work and Pensions
Cases put forward for prosecution	20	9
Of which		
• court proceedings commenced	17	5
• preparing court proceedings of which	3	
○ waiting for < 1 month	3	
○ waiting for 1-2 months		
○ waiting for 3-4 months		
○ waiting for 5-6 months		
○ over 6 months		
• awaiting acknowledgement of which		4
○ waiting for < 1 month		1
○ waiting for 1-2 months		2
○ waiting for 3-4 months		1
○ waiting for 5-6 months		
○ over 6 months		

4. Risk Management, Financial and Legal implications

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

5. Recommendation

- 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
10094	Living together	HB 9,265 CTB 955 DWP 5,623	Magistrates' Court	275 hours community service + £150 costs 01/10/2009	HB 9,265 CTB 955	HB 9,265 CT 1,334	Debt passed to external company to pursue repayment.
10442	Living together	HB 10,842 CTB 1,124	Magistrates' Court	200 hours community service + £75 costs 01/10/2009	HB 10,330 CTB 1,010	HB 10,250 CT 1,010	Partner also prosecuted – see 10785 below Had repayment arrangement of £40 month but this lapsed in 11/09. Debt passed to external company to pursue repayment.
10785	Living together	Nil	Magistrates' Court	200 hours community service + £75 costs 01/10/2009	Nil	Nil	See 10442 above.
10514	Living together	HB 4,662 CTB 940 DWP 2,896	Magistrates' Court	100 hours community service + £100 costs 15/10/2009	HB 4,302 CTB 1,323	HB 4,097 CT 1,322	Being recovered from ongoing benefit.
9708	Living together	HB 11,562 CTB 1,555 DWP 4,430	Crown Court	4 months custodial sentence (suspended for 2 years) 80 hours community service + £200 costs 19/10/2009	HB 11,732 CTB 1,554	HB 11,552 CT 2,570	Repaying £10 per week by standing order.

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
9870	Living together	HB 25,582 CTB 4,615 DWP 55,221	Crown Court	12 months custodial sentence (suspended for 2 years) 120 hours community service + £200 costs 19/10/2009	HB 25,582 CTB 4,616	HB 25,502 CT 6,404	No offer of repayment made so debt passed to external company to pursue repayment.
10299	Working and claiming	HB 5,456 CTB 1,096 DWP 3,421	Magistrates' Court	180 hours community service + £150 costs 02/11/2009	HB 5,105 CTB 1,096	HB 4,912 CT 1,130	Being recovered from ongoing benefit
10361	Working and claiming	HB 240 CTB 66 DWP 2,000	Magistrates' Court	Conditional discharge 13/11/2009	HB 1,200 CTB 64	HB 1,200 CT 2,175	Made new claim but nil entitled so new invoice raised.
9949	Living together	HB 2,006 CTB 647 DWP 2,954	Magistrates' Court	2 years conditional discharge + costs £150 23/11/2009	HB 1,585 CTB 647	HB 1,450 CT 931	Partner also prosecuted – see case 10511 below Debt being recovered from ongoing benefit.
10511	Living together	Nil	Magistrates' Court	2 years conditional discharge + costs £150 23/11/2009	Nil	Nil	See 9949 above.

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
10567	Working and claiming	HB 174 CTB 52 DWP 3,545	Magistrates' Court	2 years conditional discharge + costs £150 30/11/2009	HB 174 CTB 52	HB 224 CT 627	Claimant advised first instalment to be made early 2010 – reminder due 22/02/10
10335	Living together	HB 859 CTB 202 DWP 30	Magistrates' Court	1 year conditional discharge + costs £100 30/11/2009	HB 859 CTB 202	HB Nil CT Nil	Claimant made bankrupt Debt written-off.
10512	Living together	HB 5,408 CTB 1,452 DWP 9,051	Magistrates' Court	3 year conditional discharge 21/12/2009	HB 5,238 CTB 1,452	HB 5,178 CT 1,619	Repayment arrangement in place but weekly rate to be reviewed April 2010)

Unsuccessful Prosecutions	
Investigation Case number	Comment
9821 & 10500	Key witness wavering on evidence provided in witness statement. Legal advice is that witness is unreliable and case against partner is likely to fail. Withdrawal of proceedings against partner also weakens case against claimant. Prosecution action against both claimant and partner ceased.
9777	Joint investigation with DWP as lead. Claimant was interviewed in September 2009 Claimant appealed against DWP “living together” decision. DWP policy then was to hold back prosecution action if an appeal had been lodged. However, during the appeal process DWP policy changed to continue prosecution action in such cases. Regrettably, in this case the papers were not put in front of the DWP’s legal branch and by the time they reviewed the case there was a significant delay between IUC and prosecution progress. The prosecution case was withdrawn.

Cautions or Administrative Penalty Issued			
Case Number	Fraud Type	Overpayment £	Comment
10556	Working and claiming	790	Claimant cautioned, see also case 11031 below.
11031	Working and claiming	Nil	Partner cautioned
10956	Non declaration of earnings.	4,881	Claimant cautioned. Prosecution not considered appropriate due to claimant's health.
10663	False SPD declaration	940	Claimant cautioned
10679	Working and claiming	88	Administrative penalty issued.
10884	Working and claiming	340	Administrative penalty issued