

## **BLABY DISTRICT COUNCIL**

### **BENEFITS ANTI-FRAUD POLICY AND ASSOCIATED MATTERS**

#### **1.1 Introduction**

The Council's Benefits Anti Fraud Policy represents a commitment to protect public funds and to ensure that benefits are delivered only to those who have a true entitlement to them. This is consistent with the corporate aim of working together to reduce crime, fear of crime, and anti-social behaviour.

This policy follows the Government principles on Welfare Reform in that it implements the three pronged campaign against fraud:

- prevention;
- detection
- effective deterrents

This policy also covers:-

- benefits anti-fraud environment
- sanctions
- monitoring

The Council is determined that these arrangements will keep pace with any future developments. This framework will be subject to ongoing review.

This document sets out the basis whereby the Council will deliver the above commitment and should be read in conjunction with the Council's Corporate Anti-Fraud and Corruption Strategy.

#### **1.2 Policy Statement**

1.2.1 The Council's policy is to create an environment which supports honesty and discourages fraud. The following statement forms part of the Council's Anti-Fraud and Corruption Strategy adopted in September 2000:

- "the Council is opposed to any form of malpractice or irregularity, whether within or against the Council, internally or externally. The Council is committed to operating in an open and honest way in order to:
  - (i) Encourage the prevention of malpractice
  - (ii) Promote the detection of malpractice
  - (iii) Identify a clear pathway for investigation "

#### **1.3 Benefits Anti-Fraud Environment**

The following arrangements, in relation to Staff Recruitment/Training/Integrity and Safety, are in place to support the Council's Benefits Anti Fraud Environment:

### 1.3.1 Staff Recruitment

The Council has adopted a comprehensive recruitment procedure which includes the taking up of references for all new employees.

### 1.3.2 Staff Training

The Council's policy is to ensure that employees are given fraud awareness training. The following procedures are in place:

- The Council's Corporate Anti Fraud & Corruption Strategy is brought to the attention of employees through the induction process. This consists of a policy statement supported by a number of detailed codes of conduct, which sets out the culture, tone and standards of Blaby District Council.
- Additional specific training will be targeted at all Benefits staff and Council Divisions that are linked to the Benefit section e.g. Housing. A schedule of training will be established for new and existing staff/members, which will be the subject of monitoring and review.
- Professionalism in Security (PINS) is the nationally recognised, foundation level training course for Benefit Investigation Officers. All investigative staff will be PINS trained as a minimum standard.

### 1.3.3 Staff Integrity

In addition, a signed declaration is required from all employees with access to the Benefits system, regarding any properties, claims or claimants in which they have a potential personal interest.

### 1.3.4 Staff safety

Council officers are required to take into account at all times their own safety, that of their colleagues and that of witnesses and any other relevant individual. Council officers must remain vigilant to the potential for violence during an investigation and not place themselves, their colleagues or any other person in a situation of risk. Visits to, or interviews of person(s) known to be violent, must not be carried out unaccompanied.

## 1.4 Prevention

The Council has the following arrangements in place to prevent fraud entering the system:

### 1.4.1 IT & Physical security

The Council Tax Benefit and Housing Benefit data files are vital to the Council for the performance of the Benefits service. Two levels of encrypted passwords limit access to the system to recognised users. Each user is assigned "rights" which limit their working areas to those for which they are responsible. The system is protected against unauthorised access via internet and dialling in procedures, without prior knowledge and consent.

#### 1.4.2 Verification Framework

The Council is committed to the Verification Framework (VF) in order to prevent false, fraudulent and erroneous claims entering the benefit system. This delivers on the theory of 'Getting it Right First Time'. The Council adopted the VF on 1<sup>st</sup> March 2000 and has actively participated in the initiative since that date.

VF has introduced a vigorous procedure for the verification of benefit claims. It sets the minimum standard for Benefit Application forms and the information/proofs required to adequately verify a claim. The Benefits section has a Verification Visiting Officer, who undertakes visits to properties in order to verify that claims to benefit are correct and accurate with the claimant's true circumstances being declared.

#### 1.4.3 Royal Mail Do Not Re-direct (DNR)

This is a service whereby all post sent through the Royal Mail by the Benefits section is placed in specially marked envelopes. If any of this post is designated for re-direction, the Royal Mail will return it to the Council for investigation.

#### 1.4.4 Housing Benefit Matching Service (HBMS)

This is a DWP service where HB records are matched against DWP records and any anomalies are referred for investigation, e.g. undeclared tax credits.

#### 1.4.5 National Fraud Initiative (NFI)

This is an Audit Commission initiative, where records including Housing Benefit, salary and pension records from all 409 Local Authorities are matched against each other and additional organizations, e.g. NHS records. Any anomalies are referred to the appropriate Council for investigation.

#### 1.4.6 Remote Access Terminal (RAT)

A remote access terminal (RAT) provides the Council with access to Benefits Agency data. This facility reduces delays in obtaining information and provides up-to-date data.

Electronic transfer of data (ETD) from the Benefits Agency ensures that information is delivered accurately and speedily to the Council.

#### 1.4.7 Service Level Agreement (SLA)

Service Level Agreements are maintained with the DWP and Rent Officer Service. These are designed to maintain and improve performance standards.

### 1.5 Detection

The Council has the following arrangements in place to detect fraud:

#### 1.5.1 Benefit Fraud Hotline

The Council provides a Benefit Fraud Hotline so that members of the public

can report instances of suspected benefit fraud. The Hotline will be appropriately publicised.

#### 1.5.2 Standard Internal Referral Form

A standard referral form has been designed for internal use at the Council. This "Suspected Irregularity" referral form is designed to be user friendly (easy to complete, using tick boxes and containing helpful hints) and gather any and all information that may be useful to an investigation. These forms are available from the Investigations Officer and are issued to all internal sections at the Council that may discover benefit fraud as part of their work

#### 1.5.3 Fraud Data-base

Referral is the term used by the Investigations Officer for the receipt of allegations of Benefit Fraud. Referrals can be received from members of the public, external agencies and the Council's own employees or members. All referrals are recorded by the Investigations Officer on the fraud database, with a record of subsequent action. Where possible and where legislation allows, the outcome of the investigation is relayed to the originator of the allegation.

#### 1.5.4 Risk Analysis

All referrals of alleged benefit fraud that are received by the Investigations Officer will be subject to Risk Analysis. This analysis will be in the form of a prioritisation matrix. The matrix is designed to take into account the weight of evidence/information provided, the amount of benefit involved, the period over which an offence has occurred and which organisation is in the best position to undertake any investigation. Prioritisation ensures that, not only are all referrals made to the Investigations Officer dealt with, but they are dealt with in the most appropriate manner and the Investigations Officer is able to concentrate on the highest priority cases.

#### 1.5.5 Use of Legislation

The Council will use all legislative powers available to it in order to prevent, detect and deter acts of benefit fraud. This includes the power to inspect records held by landlords and their agent(s), the power to inspect business records and the power to deem a landlord as 'not fit and proper' and therefore prevent them receiving direct payment of their tenant(s) Housing Benefit.

The legislation used will include

- Social Security Administration Act 1992,
- Social Security Administration (Fraud) Act 1997,
- Social Security Fraud Act 2001,
- Theft Act 1968,
- Police and Criminal Evidence Act 1984 (PACE),
- Criminal Procedures and Investigation Act 1996 (CPIA),
- Regulation of Investigatory Powers Act 2000 (RIPA),
- Child Support, Pensions & Social Security Act 2000;
- Data Protection Act 1998
- Human Rights Act 1998.

Investigation Officers will be required to comply with this legislation and the spirit of the legislation at all times.

In accordance with section 110A of the Social Security Administration Act 1992; the Council has appointed an Authorised Officer with the appropriate powers of inspection under section 109B and 109C of the Act.

The Social Security Fraud Act 2001 gives new powers for authorised Department of Works and Pensions officers and local authority officers to obtain information from financial institutions and other agencies about their customers. Requests for this information are routed via the National Anti-Fraud Network.

#### 1.5.6 Joint Working/Partnership Working

The Investigations Officer has arrangements in place and continues to develop new arrangements, to work with other Departments and Agencies, in order to exchange information that can assist in the prevention and detection of benefit fraud.

This includes internal Divisions within the Council and external agencies, both local and national.

- DWP Counter Fraud Investigation Service (CFIS). Quarterly liaison meetings are held and an annual SLA is signed and monitored.
- Local Authority Investigation Officers Group (LAIOG). This is the national Local Authority benefit fraud forum.
- Leicestershire Investigation Officers Group. (LIG). This is a local group which meets regularly to discuss benefit fraud issues
- East Midlands Joint Regional Board (JRB) and Joint Operational Board (JOB). The JRB and JOB are partnerships with the Benefits Agency and other Midland Local Authorities to tackle benefit fraud. The JRB is the forum for constructing a strategy and the JOB is the vehicle to deliver this strategy on an operational level. There is funding available from the Government to undertake initiatives that emerge from JRB and JOB. The Council will actively seek any appropriate funding that is available to improve the benefit fraud service it provides.
- National Anti Fraud Network (NAFN). The Network provides a circulation service to all Local Authorities with a view to identifying cross-boundary fraud, locating benefit fraudsters and alerting Local Authorities to current fraud trends. It additionally passes on information relating to fraud from external agencies. NAFN maintains a central fraud sanctions database for Local Authorities. Requests for Social Security Fraud Act 2001 information are also routed via NAFN.
- Oadby & Wigston Borough Council. The two Councils' Investigation Officers work in partnership with regards to sanction interviewing. Further joint working initiatives are being explored.

### 1.5.7 Surveillance

Some investigations require covert surveillance. All surveillance work will be carried out in accordance with the Home Office Code of Practice issued pursuant to section 71 of the Regulation of Investigatory Powers Act 2000.

## 1.6 Effective Deterrents

The Council has the following arrangements in place to use appropriate publicity as a deterrent.

### 1.6.1 Publicity

The Council recognises that publicity can be a powerful deterrent against benefit fraud, although this deterrent effect is difficult to measure.

Publicity through the local press and media will be used to deter potential fraudsters. This will include information about proactive fraud drives, the Fraud Hotline and successful prosecution cases.

Periodically anti-fraud publicity will be used within the Council offices.

## 1.7 Sanctions

The Council has the following arrangements in place to seek appropriate sanctions:

### 1.7.1 Appropriate sanctions

In some cases, benefits will have been obtained from the Council where there is either no entitlement, or the amount awarded is greater than the individual's circumstances warrant. For example, there may have been a change in the customers' circumstances that would have affected the award of benefit, but has not been reported.

This may or may not have been done as a deliberate act, but under these circumstances, the Council will consider the particulars of each case. Where the customer could reasonably be expected to know that the failure to report the change in circumstances would result in them receiving benefit they knew they were not entitled to, the Council will consider the appropriate sanctions against the perpetrator.

These sanctions will include prosecution under the Social Security Administration Act 1992, or the Theft Act 1968. However, where appropriate, the Council will consider applying a statutory Administrative Penalty of 30% of the amount of overpayment of benefit. The Council will also consider the use of Local Authority Caution. These sanctions will be used in the less serious cases or where there are mitigating circumstances, but can only be used when the allegations are admitted.

Further information in connection with prosecution and sanctions and the circumstances under which they are used can be found in the Housing Benefit Prosecution Policy. This policy was approved by the Council's Policy &

Resources Committee on 12<sup>th</sup> December 2000. The policy will be updated in 2004/2005.

The Investigations Officer is working in partnership with Oadby & Wigston Borough Council's Investigations Officer with regards to sanctions interviewing. This is a reciprocal arrangement whereby only appropriately trained officers will jointly undertake Interviews Under Caution. This is to ensure officers remain within the law and in line with Best Practice.

#### 1.7.2 Recovery of Overpaid Benefit

Whether or not the Council deems it appropriate to take prosecution or other action against a person who has been overpaid benefit, the Council will always seek to recover the benefit overpaid. It is not the Council's intention to place its customers in financial hardship, and reasonable arrangements for the repayment of any overpaid benefit will be sought. However, failure to come to an arrangement, or failure to repay the overpaid benefit (including failure to comply with an arrangement), will result in the Council taking civil recovery action through the courts. Officers of the Council will take into account the principles of the Enforcement Concordat, adopted by the Council in October 2000 (Policy Resources Committee Minute 242 refers), when considering which is the most appropriate form of recovery of overpaid benefit.

#### 1.7.3 Action on Overpayments to Landlords

Payments of benefit are often made direct to the customer's landlord. In some cases, landlords falsify or assist their tenants to falsify claims for benefits (collusion).

Where the landlord is receiving benefit on behalf of their tenant(s), the landlord has a duty to notify the Council of any changes in the tenant's circumstances. Failure to report such a change could result in the landlord receiving more benefit than they have the right to. The Council makes landlords aware of their duty to report known changes and failure to do so is an offence under Social Security Administration Act 1992 section 112.

The Council will also seek to recover any overpaid benefit from on-going payments of benefit that the landlord receives or through civil recovery action through the courts.

### 1.8 **Monitoring**

The following measures are in place:

#### 1.8.1 Management Information

The ability to extract management information and risk analysis information are essential requirements of the fraud module. Consideration will be given to suitable Fraud Management systems to enable the Investigations Officer to record and monitor the claims under investigation and to produce relevant management and risk analysis information.

### 1.8.2 Feedback –what to expect

All referrals are recorded by the Investigations Officer on the fraud database, with a record of subsequent action. Where possible and where legislation allows, the outcome of the investigation is relayed to the originator of the allegation.

### 1.8.3 Feedback – learning cycle

Staff can expect to be fully trained in the work they are expected to undertake. They will be given both fraud awareness training and original/fraudulent document identification training. They will receive refresher sessions thereafter. Results of investigations will be analysed and used to develop fraud awareness within the Council.

### 1.8.4 Best Value Performance Indicators

The Government has set Best Value Performance Indicators for the Benefit Service and Fraud Investigation. There are also set thresholds for identified overpayments. The Benefit Fraud Inspectorate (BFI) has issued new performance standards for Housing & Council Tax Benefit in March 2002. The Council strives to meet and exceed these standards where possible.

The work undertaken by the Benefit Section and the Investigations Officer is subject to annual testing by Internal Audit and the Audit Commission (the Council's external auditors). Recommendations made by either the internal or external auditors are considered and implemented where appropriate.

### 1.8.5 Benefit Fraud Inspectorate and Best Value Inspectors

The Benefit Service is also subject to further external inspection by organisations such as the BFI and the Best Value Inspectors.