

# **Winchester City Council**

## **Housing and Council Tax Benefit**

### **Anti-Fraud Policy**

#### **Part 1 - Background**

##### **1.1 Introduction**

###### **1.1.1 Winchester City Council is committed to**

- the delivery of Housing Benefit and Council Tax Benefit to the people of Winchester
- ensuring that benefits are paid correctly to the people who are entitled to them and that the income of benefit claimants is maximised
- preventing all forms of benefit fraud.

##### **1.2 Definition of Fraud**

###### **1.2.1 Fraud is defined as the intentional distortion of financial statements or other records by persons internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain. Fraud is a deliberate act by an individual or group of individuals and is therefore always intentional and dishonest.**

###### **1.2.2 Internal fraud refers to fraudulent acts undertaken by Council Members and employees e.g. dealing inappropriately with benefits in which one has a personal interest or which relate to claims of friends or relatives.**

###### **1.2.3 External fraud is defined as fraud committed against the Council by persons outside of the organisation e.g. false statements in benefits applications.**

###### **1.2.4 The Council recognises that some people will attempt to obtain benefits to which they are not entitled. Where intention and planning is involved this is fraudulent and, where appropriate, the Council will prosecute under the Social Security Administration Act 1992 or the Theft Act 1968. It must be borne in mind, however, that the vast majority of the people who claim benefit are genuine and only a minority seek to take advantage by providing false information or deliberately failing to report changes in circumstances.**

###### **1.2.5 This policy complements other Council policies**

- Corporate Anti Fraud and Corruption Strategy
- Whistleblowing Policy
- Codes and Protocols for Members
- The Council's Constitution
- The Employees' Code of Conduct
- Staff Terms and Conditions of Employment
- Benefit Fraud Prosecution Policy

## **Part 2 - Staff Roles and Responsibilities**

### **2.1 Statutory Officers**

- 2.1.1 The Chief Financial Officer (Director of Finance) has been delegated, through the Council's Financial Procedure Rules, the powers to control and regulate the Council's finances. These include the promotion of systems and practices to minimise the risk of fraud and corruption.
- 2.1.2 An important part of the control framework is the maintenance of an adequate and effective internal and external audit of the Council's accounting records and control systems, as required by the Accounts and Audit Regulations 1996.
- 2.1.3 The Director of Finance (as section 151 officer or "Chief Financial Officer") should be provided with sufficient resources to allow him/her to be able to fulfil the responsibility to ensure the proper administration of financial affairs.
- 2.1.4 The Monitoring Officer (City Secretary and Solicitor) has a duty to advise and report on any action which could be unlawful or beyond the Council's powers. The Council has a statutory duty to provide the Monitoring Officer with sufficient resources to perform this role.

### **2.2 Managers**

- 2.2.1 Managers in the Benefits and Local Taxes Teams are responsible for ensuring that there are adequate measures to prevent and detect fraud and corruption within the areas under their control. Achievement of this is assisted by:
  - compliance with Council policies, rules and regulations
  - ensuring staff understand their responsibilities through adequate supervision, written procedures and job descriptions
  - responding positively to points raised and advice given by internal and external audit.
- 2.2.2 Management need to be vigilant in guarding against fraud and corruption, be aware of any circumstances which may indicate that there may be a problem and report any such suspicions, for an independent investigation or advice, to the Director of Finance or the head of Internal Audit.
- 2.2.3 In carrying out their responsibilities, all managers (and staff) should be conscious of the fact that they are spending public money. This provides an extra responsibility not only to spend it economically and effectively but also fairly.
- 2.2.4 There should be sensitivity to public concerns over how their money is being used and consideration of how actions taken may be interpreted by others. Being prepared to justify decisions taken and having evidence to support these and generally being open about the way we conduct our business will help instil public confidence.
- 2.2.5 Managers must also ensure that adequate counter fraud training and guidance is provided and must help to create an environment in which fraud

is not tolerated by encouraging employees to voice any concerns or suspicions that they have.

## **2.3 Employees**

- 2.3.1 All employees are expected to promote and contribute to the Anti Fraud culture within the Council. All employees must ensure that they comply with the Council's Constitution and Employees' Code of Conduct .
- 2.3.2 All staff in the Benefits and Local Taxes Sections and other staff who receive and verify documents from benefit claimants must remain vigilant at all times and be aware of the possibility of fraud.
- 2.3.3 Where a claim or document is identified as irregular or suspicious a referral must be made to the Investigations Team using the appropriate procedure (see paragraph 4.1). A referral may be appropriate at any time during the life of a claim.
- 2.3.4 All Benefits and Local Taxes staff are required to record any incidents when dealing with claims where the claimant or other person associated with the claim was offensive or where it is believed that the person was potentially violent. In these situations a Violence/Abuse Report Form should be completed. The Health and Safety Officer will add the name of the individual to the Corporate Register for Potentially Violent and Aggressive Persons if appropriate. This register is made available to at risk staff, primarily those who undertake home visits.
- 2.3.5 Staff have a duty to make management aware of any concerns that they have about the conduct of Council affairs. All matters raised by them will be taken seriously and properly investigated. No action will be taken against a member of staff where they have reasonable concerns although if a member of staff were shown to be acting maliciously this would be dealt with through the Council's disciplinary procedure.

## **2.4 Investigations Officers**

- 2.4.1 As employees Investigations staff must ensure that they comply with the Council's Constitution and Employees' Code of Conduct .
- 2.4.2 In addition, all investigation and visiting officers undertaking enquiries to validate benefit claims will operate within a Benefit Fraud Investigators or Visiting Officers Code of Conduct. This will ensure that they identify themselves properly to claimants, converse and correspond with affected persons only and that they act reasonably and fairly when interviewing persons in their home, the City Offices or elsewhere. The codes of conduct also contain guidelines to minimise risks when visiting claimants in their homes.
- 2.4.3 All referrals made by Local Taxes and Benefits staff will be considered by an Investigations Officer. Where a referral is accepted, the Investigations Officer will, under the general guidance of the Benefits Manager, carry out an investigation. On completion of each investigation a full documented report will be prepared and an appropriate recommendation made.

## **2.5 Staff training and monitoring**

- 2.5.1 All benefit staff will receive fraud awareness training and will have regular refresher training covering fraud awareness and criteria and procedures for

referring cases of suspected fraud. All staff are given training on dealing with difficult customers.

- 2.5.2 A copy of this policy has been given to all relevant staff and will be given to and explained to all new recruits.
- 2.5.3 Investigations Officers will be fully trained in all investigative legislation and know best practice, incorporating interviewing and taking statements under caution, observation techniques and report writing.
- 2.5.4 Participation in professional training courses is encouraged. Where appropriate the acquisition of a recognised qualification such as IRRV Technician Fraud or PINS will be encouraged and financially supported by the Council.
- 2.5.5 The Council's Annual Competency Assessment procedure will be used to assess current performance and to identify any training needs. Progress will be reviewed at each appraisal interview.

## **2.6 Register of interests**

- 2.6.1 All staff involved in Benefits administration and investigations are required to register
  - any interest that they have in a property that is let to tenants, whether or not those tenants are claiming benefit
  - any claim made by a close family member (as defined in Schedule 2 of the Housing Benefit and Council Tax benefit Regulations).
- 2.6.2 The register will be maintained by the Benefits Manager.
- 2.6.3 Staff are required to make themselves aware of, and at all times to comply with the written procedures governing the registration of interests.

## **2.7 Independent adjudication**

- 2.7.1 Enquiries leading to suspicions of fraud and abuse will be reported fully by the Investigations Officer and a recommendation will be made to the appropriate decision maker.
- 2.7.2 Decisions on a case will be made by an independent decision maker. This will normally be the Benefits Manager. All decisions will be made in accordance with the benefit regulations having regard to the circumstances of the case and evidence obtained by the Investigations Officer. The case will then be passed to a Benefits Officer for reassessment and processing as necessary.

## **2.8 Appeals**

- 2.8.1 All decisions made under the benefit regulations will result in a notification being sent to the person affected. The notification will show the appropriate rights of appeal. Similarly, where an overpayment occurs a separate notice will be issued which will also show rights of appeal.

## **2.9 Decisions on legal action**

- 2.9.1 Final decisions on whether or not to recommend legal action in cases of benefit fraud will be made by the Benefits Manager. Any decision to prosecute will be taken by the City Secretary and Solicitor. All decisions will be reached taking all of the circumstances of the case into account.

## **2.10 Complaints**

- 2.10.1 All formal complaints will be dealt with under the Council's complaints procedure.

## **2.11 Physical security - Visitors**

- 2.11.1 All staff follow procedures for access to Council Offices. Identification badges are held by staff and no access to the offices is to be given to any unauthorised persons. Staff must ensure that all visitors are seen in the reception area. Where the visitor is to be seen anywhere other than in the general reception area they are required to sign the visitors' log held by at the main reception desk and carry a visitor's ID badge at all times.

## **2.12 Physical security - Documents**

- 2.12.1 Care must be taken with all documents received. Original documents that are submitted in support of a claim must be dealt with in accordance with the Post Opening Procedure. The procedure ensures that original documents are dealt with in a secure environment, recorded, verified, photocopied and returned to the claimant.

## **2.13 Physical security - Cheques**

- 2.13.1 All benefit payment cheques will be passed from the IT Contractor to the Exchequer Team for checking and sealing. The cheques are then passed to Office Support for despatch. Staff with access to determine and pay benefit claims must not have access to the cheques.
- 2.13.2 The staff in the Exchequer Team will handle all returned and uncashed cheques. Any cheques inadvertently received into Benefits along with other claim related documents must be delivered to the Exchequer Team immediately.

## **Part 3 - Prevention**

### **3.1 Administration**

- 3.1.1 Fraud and error can be reduced by ensuring that benefit claims and changes in circumstances are processed promptly. Careful monitoring of outstanding work levels and prompt action to prevent and reduce backlogs will minimise the opportunities for fraud and reduce the potential for error.

### **3.2 Internal checks and quality control**

- 3.2.1 A number of internal checks and processes are employed to prevent and detect fraud. Quality control checks of benefit assessment work carried out by Team Leaders and the regular rotation of staff so that individual cases are not dealt with by the same member of staff are two important examples.

### **3.3 Verification framework**

- 3.3.1 The Council is committed to employing procedures that prevent fraud entering the benefits system. The Verification Framework (VF) was implemented with effect from 1 May 1999. This requires risk analysis of claims, regular 'in-claim' visits according to risk and full supporting documentation for all claims including evidence of income, capital and rent.
- 3.3.2 All staff who process claims must ensure that the VF procedures are followed. These include the need for original documentation not photocopies, ensuring that all relevant questions on the claim form are completed and that the declaration is signed and dated. Details of what has been accepted as evidence must be recorded on the claim file together with details of what cross checks have been carried out to verify the information provided with the claim.
- 3.3.3 The framework also specifies that management checks must be carried out on 10% of claims processed. These are carried out by the Benefits Team Leaders and ensure that the framework is being implemented correctly.

### **3.4 Other actions**

- 3.4.1 There is a range of other positive actions that the Council takes to support prevention and facilitate the detection of fraudulent claims.

- **Anti Fraud hot line**

There is a dedicated line into the Investigations Team where information about potentially fraudulent claims can be given anonymously. The hotline is publicised in the external press and on other documents issued by the Council.

- **Royal mail do-not-redirect**

Benefit cheques are issued in specially designed envelopes to take advantage of this scheme. If undelivered the envelope will be returned direct to the Council overriding any forwarding arrangements put in place with the Royal Mail and details of the forwarding address will be provided to the Council.

- **External data matching**

The Council participates in external data matching exercises. These include

- **Housing Benefit Matching Service** - this is run by the Department for Work and Pensions and provides a match of HB/CTB claims to data held by the Department for Work & Pensions, Tax Credit Office and other government departments to identify unreported sources of income or changes of circumstances.
- **National Fraud Initiative** - this is run by the Audit Commission. The Council provides data on HB/CTB claims, payroll and housing. This is matched to similar and additional data provided by other Councils.

Data matches are reviewed and investigations are carried out in appropriate cases.

- **Remote Access Terminal (RAT)**

The Council has a RAT that provides immediate on-line access to certain Department for Work & Pensions data relating to a variety of social security benefits e.g. income support, job seekers allowance, retirement pension and incapacity benefit. This enables staff to cross check information quickly. The RAT is also used to download information from the Benefits Agency that would otherwise have been sent by post.

- **National Anti-Fraud Network (NAFN)**

The Council subscribes to NAFN. NAFN is an organisation that aims to fight fraud by the exchange of information. It provides an intelligence network between local authorities and gives access to services such as credit history searches, telephone subscriber checks and DVLA registered keeper checks.

- **Service Level Agreements (SLA)**

The Council has SLAs with the following organisations

- Jobcentre Plus - covering the administration of benefits for those of working age
- Benefit Fraud Investigation Service - covering arrangements for anti-fraud activities
- Rent Officer - the arrangements for dealing with rent referrals
- The Pension Service – covering the administration of benefits for those of pensionable age

The SLAs demonstrate a commitment to working closely with external agencies to prevent and detect fraud.

- **Land Registry**

In appropriate cases checks are made with Land Registry records to verify information associated with a benefit claim.

- **Hand delivery of cheques**

In specific cases, but not as a matter of routine, cheques will be hand delivered by Investigations Officers to confirm residency and other aspects of the claim.

- **Prosecution Policy**

The Council has a Benefit Fraud Prosecution Policy that demonstrates the Council's commitment to combating all forms of benefit fraud and at the same time ensuring that claimants receive their maximum benefit entitlement.

- **Internal Audit Reviews**

Internal Audit reviews of the Benefit Service are carried out on a regular basis and findings and recommendations are implemented.

- **Joint investigations**

Joint investigations with the Department for Work & Pensions are undertaken when suitable cases are identified.



## **Part 4 - Detection**

### **4.1 Fraud Referral Procedure (not yet compiled)**

- 4.1.1 The Fraud Referral Procedure outlines the process that should be followed to forward information to the Investigations Team when a member of staff has a suspicion of claimant fraud.

### **4.2 Internal Fraud**

- 4.2.1 Where the suspicion relates to a member of staff, a Councillor or if the individual thinks it appropriate the report should be made direct to the immediate manager or supervisor. Further advice is contained in the corporate Anti Fraud and Corruption Policy.

### **4.3 External Fraud**

- 4.3.1 The most common types of fraud encountered are:
- non declaration of income - wages/salaries, benefits, pension
  - non declaration of savings or investments
  - non declaration of partner or other adults in household
  - failure to notify changes of circumstances
  - non occupancy at the property at which the claim is made.
- 4.3.2 A standard fraud referral form should be completed and forwarded to the Investigations Team. The referral should contain as much detail as possible to assist the Investigations Officer.

### **4.4 Feedback on referrals**

- 4.4.1 In order to encourage staff to make referrals, an effective process of feedback is essential. During or after an investigation, whichever is appropriate, the Investigations Team will brief the staff member on the outcome or progress of the case.
- 4.4.2 In addition to individual feedback the Investigations Team will attend Benefits Team meetings and provide an update on progress with referrals.
- 4.4.3 The feedback process is intended to encourage referrals, improve the quality of referrals and identify possible training needs either to an individual or team. It also supports and reinforces this policy.

### **4.5 Investigations Team**

- 4.5.1 The Investigations Team, under the guidance of the Benefits Manager, will employ a range of appropriate investigation techniques from taking third party witness statements, liaison with external agencies and other Government departments to undertaking interviews under caution.
- 4.5.2 Where there are reasonable grounds for suspecting that an offence has been committed and or where it is suspected that someone has made a fraudulent claim the Council is required to interview the person suspected under caution in accordance with provisions of the Police and Criminal Evidence Act 1984. This legislation governs the appropriateness of the caution, how the person is interviewed and the manner by which it is recorded. All interviews under

caution are recorded contemporaneously to protect fully the rights of the person interviewed.

- 4.5.3 If in the course of investigations, officers consider that it is necessary to carry out covert surveillance then the investigating officer will seek authority under the provisions of the Regulation of Investigatory Powers Act, 2000. This requires approval from a senior officer authorised under the Council's Constitution for this purpose.
- 4.5.4 The Benefits Investigation Terms of Reference outline the reporting structure and the performance reporting arrangements for the Team. The Terms of Reference also indicate the types of fraud that are investigated, the types of investigations undertaken and give an outline of the priorities attached to different types of investigations. The importance of liaison and close working arrangements with internal departments and external agencies is also highlighted.
- 4.5.5 The Team operates under various guidelines and procedures including an internal procedure manual and the Local Authority Investigators Manual issued by the Department for Work and Pensions.

## **Part 5 - Sanctions**

### **5.1 General Policy**

- 5.1.1 Where the Council has obtained sufficient evidence to establish that benefit payments have been made as a result of false information being knowingly and intentionally included in claims or where information has been deliberately withheld consideration will be given to taking legal action against those persons involved. This can act as a future deterrent to those persons and others in committing such offences.

### **5.2 Range of sanctions**

- 5.2.1 A number of actions are available to be taken by the Council where fraud has been established. These are:
- Administrative penalty - similar to a fine plus recovery of the overpayment
  - Prosecution via referral to the Police (including recovery of the overpayment)
  - Prosecution via Legal Services (including recovery of the overpayment)
  - Formal caution and recovery of the overpayment
  - Informal warning and recovery of the overpayment
  - Recovery of overpayment only.

### **5.3 Prosecution Policy**

- 5.3.1 As a broad rule this policy endorses that prosecutions will be considered for persons who clearly set out to defraud, or attempt to defraud, the Council. However each case is considered on its own merits and action will be considered as appropriate.
- 5.3.2 Where a claimant has been accused of committing a fraud against the Council and Benefit Investigators have enough evidence to sustain a prosecution, then the Council must first consider whether it is in the public interest to undertake the prosecution.
- 5.3.3 When applying the test of public interest, and before making a decision to prosecute several factors must be considered. The Benefit Fraud Prosecution Policy outlines the areas that must be considered. These include
- amount of the overpayment
  - voluntary disclosure
  - previous instances of fraud
  - mental and physical condition of the offender and partner
  - social factors
  - inadequate evidence
  - failure in investigation
  - failure in benefit administration
  - delay.

### **5.4 Overpayment recovery**

- 5.4.1 The Council is committed to seeking recovery of all recoverable overpayments of benefit especially those that are created as a result of a fraudulent claim.

- 5.4.2 Council Tax Benefit overpayments are recovered as arrears of Council tax.
- 5.4.3 Where it is not possible to recover an overpayment of housing benefit from outstanding or on-going benefit entitlement a recovery process is put in place to ensure that an efficient and effective collection process is in place. A number of different recovery options will be considered ranging from repayment arrangements to taking action in the County Court to secure a judgement. The Housing Benefit Overpayments Policy contains full details of the recovery process.

## **Part 6 - Deterrents**

6.1 The Council will seek to deter fraud in the following ways:

### **6.1.1 This Policy**

The approval of this policy shows the Council's commitment actively to reduce fraud.

### **6.1.2 Verification Framework**

Meeting the standards of evidence and claim checks both act to deter fraudulent claims.

### **6.1.3 Penalties and Prosecutions**

The Council will take firm action against persons defrauding the Council in appropriate cases and in accordance with the Benefit Fraud Prosecution Policy.

### **6.1.4 Publicity**

Successful prosecutions will be publicised, where appropriate, to gain maximum benefit from the action that has been taken. Other opportunities to publicise anti-fraud initiatives will be taken to assist in raising awareness e.g. advertising the hotline.

### **6.1.5 Overpayment recovery**

The commitment to recover overpaid benefit particularly where the overpayment has been the result of fraudulent activity.

### **6.1.6 Investigations & Visiting Officers' Codes of Conduct**

Staff must ensure that they comply with these codes.

### **6.1.7 Claim form declaration**

The benefit claim form contains a declaration that makes it clear to all claimants that the Council will take action against those persons who commit fraud and that benefit overpayments that arise from claimant error or fraud will have to be repaid.

### **6.1.8 Reporting on performance**

The performance monitoring reports for the Benefits Service includes activity, volumes, targets and performance indicators for the Investigations Team.