



MELTON BOROUGH COUNCIL

BENEFIT SECTION

BENEFIT FRAUD SECURITY STRATEGY

DRAFT

Contents

Executive Summary

- 1.0** Introduction
- 2.0** Statement of intent
- 3.0** Scope
- 4.0** The Role of Council Officers
- 5.0** Security of the Benefits Environment
- 6.0** Preventative Measures and Processes
- 7.0** Detection
- 8.0** Outcomes

Appendices

Appendix 1 – Overpayment Policy

Appendix 2 – Declaration of Interest form

Appendix 3 – Code of Conduct for Benefit Investigation and Visiting Officers

Appendix 4 – Staff Responsibilities when claiming

Appendix 5 – Arrest policy

Appendix 6 – Sanction/Prosecution Policy

Appendix 7 – Data Matching Policy

Executive summary

The counter fraud strategy contributes towards 6 of the Council's 10 corporate outcomes

- **Supporting people and businesses through the economic downturn** – through encouraging people to correctly claim the benefits they are entitled to increasing their financial wellbeing and awareness. This in turn may release the potential to spend that income within the local community.
- **Improving the well-being of vulnerable people** – through ensuring that Housing Benefit (HB) and Council Tax Benefit (CTB) is paid out accurately and promptly thereby helping them to sustain their tenancies and homes, this in turn will improve their general health and wellbeing. By minimizing fraud and error we also aim to reduce the amount of any overpayments that may need to be subsequently repaid which could lead to increased financial hardship.
- **Reducing reoffending and the impact of offending on the community** – through ensuring HB and CTB is not paid out incorrectly to people who may use the money for illegal acts and providing deterrents to them and others not to make any future fraudulent claims.
- **Meet the economic needs of the Borough** – through ensuring the correct amount of HB and CTB is paid to those in the community who need financial support the most.
- **Improve quality of life for people living in the most disadvantaged neighbourhoods** – through ensuring that income is maximized thereby in order that funds can be channeled into positive activities for their families ultimately helping to improve their general health and wellbeing.
- **To provide high performing services that are efficient and meet customer's needs**

Additionally as a public body we have a duty of care to protect the public purse to ensure that any available funds are used to the maximum effect for the most vulnerable people in our society.

Since the economic downturn the Council has received a significant increase in the number of claims received. The potential therefore is for an increase in the number of fraudulent and/or incorrect claims. Our aim continues to be **to pay the right benefit to the right people at the right time.**

Maintaining a secure benefit system is vital to reducing fraud and error. Our experienced staff provides our best defence. We will work closely with other Government agencies including conducting joint investigations. We will encourage the public to support our work through notifying us of suspected crimes. The Council takes all of the above seriously and our strategy has been developed to ensure it meets our desired corporate outcomes as set out below

- The precautions we will take when recruiting staff and what we expect from our staff and what their roles are
- How we will maintain a secure benefit system
- How we will conduct investigations
- How we will protect the data we hold
- How we will communicate with the public
- How we will measure the outcomes (success) of our work

1.0 Introduction

- 1.1 Melton Borough Council recognises the importance of a counter benefit fraud strategy in delivering a secure benefit service and is committed to seeing the strategy implemented effectively.

Countering fraud is the responsibility of everyone working in or having managerial responsibilities for HB and CTB administration. It is an essential part of this administration that everyone is aware of the risks of fraud and knows what action to take if fraud is detected. Effective and efficient benefit administration, particularly in respect of verification of claims for benefit, will help to prevent and reduce fraud and error from entering into the system.

However, despite how good the administration is, fraud will still enter the system. It is vital that Local Authorities develop sound measures to detect, investigate and take action against fraud. This Benefit Fraud Security Strategy outlines a number of initiatives that are already being operated and to give you an understanding of the actions being undertaken against fraud and corruption. In particular the revised sanction/prosecution policy clearly states what sanctions, if any, will be taken against those who have committed benefit fraud.

This strategy updates the previous Benefit Fraud Strategy which was originally introduced in 2003.

1.2 Definitions

Fraud is defined as the deliberate misrepresentation of circumstances, or the deliberate failure to notify changes of circumstances promptly with the intent of gaining some advantage.

Corruption is offering, giving, soliciting or accepting an inducement or reward, which may influence the action of any person.

2.0 Statement of intent

- 2.1 Each year around £11 million is awarded in HB and CTB to people within the Melton Borough. This provides much needed assistance to some of the most vulnerable people in our society. However, wherever benefit is fraudulently obtained the public purse is robbed of the opportunity to provide greater relief in the long term. Constant vigilance is required to guard against the risk of either internal or external abuse of public funds. Therefore, it is our intention to create an environment within which fraud and corruption are clearly unacceptable and where staff and public alike feel at ease to report any suspicions they may have.

2.2 Corporate approach

For this strategy to be effective Council-wide support and co-operation is essential. The Council's confidential reporting code (**whistle blowing**) sets out procedures for reporting any allegation of impropriety and creates an open environment, encouraging officers to report any suspicions should they arise. The code also offers protection to an officer disclosing such information. In addition, the Corporate Counter Fraud Strategy provides an over-arching document for the protection of the whole Council organisation, against fraud in general. The Council has also introduced a specific requirement to

highlight to both new and existing staff members their individual responsibilities if they are currently claiming HB and/or CTB or intend to claim HB and/or CTB in the future.

2.3 The role of the Governance Committee

The importance placed on fraud prevention can be supported and promoted at member level by the role played by the Governance Committee in overseeing the implementation of this strategy and receiving regular reports on progress being made by the Benefits Investigation team.

2.4 Public participation

The public also has an important role to play in supporting this strategy. Through the use of the Tenants newsletter, local press and other publicity media, we will focus public attention on fraud issues.

Our 24-hour telephone hot line **0800 028 2196** has already provided helpful leads on benefit frauds, we will continue to advertise this facility's availability for the public to use to advise us confidentially of suspected benefit abuse.

Our HB and CTB application form actively promotes people to contact us if they have any suspicions of potential fraud.

From time to time, we will publicise the success of our fraud team and bring successful prosecutions to public notice.

3.0 Scope

This document outlines how the Council aims to undertake its role in preventing and detecting fraud and error from the benefit system. The Strategy, together with its associated policies, codes of practice and procedures, covers the whole benefit system from safeguarding the administration of the system to the investigation and final determination of each case investigated.

4.0 The role of Council officers

4.1 Recruitment and Selection

Staff will be recruited in accordance with the corporate procedures for recruitment and selection which already include security checks such as

- verification of former employers, employment history and qualifications.
- establishing, as far as possible, the candidate's honesty and integrity
- identifying if the candidate is subject to disciplinary action at current or most recent employment.
- carrying out competency tests.
- references will be obtained using the Councils standard proforma

All Customer Service staff are routinely required to have a Criminal Record Bureau check before their employment commences and at three yearly intervals. The Council will not accept disclosures undertaken by other organisations.

4.2 Managing Benefit Administration

It is the Council's duty to protect public funds. Managers will be responsible for ensuring there is an active counter fraud culture within their respective sections. Good communication is essential both internally and externally between Members, Officers, Customers, Landlords, the Department for Work and Pensions (DWP) and any other external partners we may work with. Sound training, written procedures and effective systems, maintained by continual development and refinement are necessary to promote good administration. This will create an environment within which the sound verification of data and accurate assessment of new and active benefit applications can take place.

- 4.2.1** Closer working initiatives will be supported and strengthened between the Council and other organisations such as the DWP and other Councils. The value of such arrangements has been recognised in improved working relations, better intelligence, security and performance. Service Level Agreements are entered into annually and periodically monitored to ensure standards are maintained.
- 4.2.2** The Verification Framework has been adopted to strengthen the standards under which benefit claims are submitted, verified, assessed and paid. Acceptable evidence guidance has been made available within the Council's Customer Relationship Management (CRM) system workflows for both new Claims and Changes of Circumstances. A deskaid is also provided to new staff as part of the new starter training provision.
- 4.2.3** Where any irregularities/suspicious are identified, these will be referred to the Benefit Investigation Officer for the purposes of investigating any potential Benefits Fraud.
- 4.2.4** Referrals of suspected fraud will be dealt with in the strictest confidence and the identities of those providing information will be withheld. Written general guidance on how staff may make referrals are contained within the Customer Service new starter manual and a specific fraud referral workflow within the Council's (CRM) system.
- 4.2.5** Providing feedback to staff that made the initial referrals is an essential element of motivating staff to remain vigilant and make further referrals. Before investigations are finally closed, details of the outcome of the investigation will be related back to the officer originating the referral. In addition, any useful information helpful to staff for future reference (identified trends, etc.) will be reported to the relevant staff through liaison and team meetings.
- 4.2.6** If an overpayment of benefit has occurred, wherever possible recovery will be actively sought. The procedures for this are set out in Appendix 1.

4.3 Staff Responsibilities

It is the responsibility of staff working within the Benefit and Customer Services Section to remain vigilant at all times towards error and attempted fraud and to report any suspicions immediately using the referral system.

- 4.3.1** The Council's Constitution contains a code of conduct for all staff. In addition, all staff who, as part of their role, administer HB and CTB or have access to the benefit software system are required to complete and sign a Declaration of Interest form as reproduced in Appendix 2 and all Investigation Officers are required to sign up to a specific code of conduct as reproduced in Appendix 3. Staff are also expected to make an annual

declaration of these interests and an annual sign up to the code of conduct. The forms are monitored and maintained by the Team Leader - Benefits.

4.3.2 Any officer who has declared a pecuniary or non-pecuniary interest (however remote) in relation to a benefit claim shall take no part in the assessment or investigation of that claim. Additionally access to view and update any details on any declared interests will also be removed from that member of staff, this is controlled by security levels within the benefit software and is maintained and monitored by the Team Leader - Benefits.

4.3.3 Where a member of staff or their partner are or start to receive HB and/or CTB they must complete the form as reproduced at Appendix 4 which reiterates their responsibilities particularly in respect of advising of changes in their circumstances.

4.3.4 Staff must adhere to the principles of data protection and information security at all times ensuring that the Data Protection Act 1998 is never breached.

4.4 Training and guidance

4.4.1 All staff who, as part of their role, administer HB and CTB will be fully trained in the work they are expected to undertake. Initial staff training needs will be identified at induction and thereafter at annual appraisal. Refresher training/guidance will also be carried out as and when it is felt necessary ie changes to legislation/ quality issues/errors found etc....

4.4.2 All staff who, as part of their role, administers HB and CTB will also receive training in fraud awareness and fraudulent document identification training at the time of their appointment and receive refresher sessions as required.

4.4.3 All staff involved in investigations and acting as Authorised Officers must be accredited with or working towards Professionalism in Security (PINS) training offered by the DWP or an equivalent qualification. Direct line managers involved in investigations must also be accredited with or working towards Professionalism in Security (PINS) training offered by the DWP or an equivalent qualification.

4.4.4 A guidance and procedural manual is being developed for all investigation procedures.

4.5 Safety from Potential violence

4.5.1 Procedures will be maintained to safeguard officers from threats of violence. All interview rooms used for investigation and sanction interviews are fitted with panic alarms and have dual access. Corporate procedures are in place for monitoring the safety of investigators and visiting officers whilst out of the office (including solo protect alarms) together with the issue of any relevant and appropriate safety equipment that may be required. Training will be provided for dealing with potentially violent customers and checks should be carried wherever possible regarding any known history. Officers safety is paramount and they must not knowingly place themselves at risk.

5.0 Managing Investigations

5.1 It is widely recognised that effective and efficient investigations, leading to the identification of fraud, the imposition of sanctions and publication of successful investigations will act as a strong deterrent to others.

- 5.2** An efficient well-trained Investigation Officer is essential to implementing this strategy. Staff will receive appropriate training for this purpose and be equipped with the necessary resources, where practical, to carry out their role effectively.
- 5.3** Fraud referrals will be risk scored by the Team Leader – Benefits promptly and prioritised using a points system. Our aim is that the initial evaluation will take place within ten working days of the referral being raised.
- 5.4** All legal information sources and legislative powers will be fully utilised to ensure investigations are carried out thoroughly and accurately this includes the powers of arrest as a last resort if all other routes have been exhausted our Arrest Policy establishes a framework of guidance – see Appendix 5
- 5.5** Investigations will also be pro - active as well as reactive and include, targeting high risk groups, targeted visits and co - operating in all data matching exercises including National Fraud Initiative (NFI) and Housing Benefit Matching Service (HBMS). Joint investigations with DWP, Her Majestys Revenue and Customs (HMRC) and other local Authorities fraud staff will also be undertaken.
- 5.6** Caseload monitoring re age and progress of investigations together with general support, guidance and advice to the Investigator will be provided by the Team Leader - Benefits
- 5.7** The Council will apply correctly any one/two strike action as determined by the DWP where appropriate as defined by legislation.
- 5.8** The Council supports the use of appropriate sanctions against fraudulent claimants. Sanctions will include cautions, administrative penalties and prosecutions.
- 5.9** To ensure sanctions are imposed with complete impartiality our Sanctions/Prosecution Policy establishes a framework of guidance – see Appendix 6.
- 5.10** Statistics in respect of performance and outcomes will be kept and trends and successful referral sources will be monitored and analysed and used to potentially run proactive campaigns.
- 6.0 Security of the Benefits Environment**
- 6.1 Information Technology**
- 6.1.1** The Council's HB and CTB specialised software system is vital to the Council's efficient and effective delivery of their Benefit service. The data held ensures individuals entitlement is calculated and paid correctly, whilst collecting and producing accurate administrative data to enable the Council both to recover from the Government its correct subsidy entitlement and report to the DWP and ourselves in respect of performance information. The data contained within the software package is both highly confidential in relation to the personal data it contains and valuable in respect of the amount of detailed financial information held. Any unauthorised access to this database could compromise the integrity and unlawful distribution of the data held. Protection of this information is therefore, vital.
- 6.1.2** The system is protected by a firewall to prevent unauthorised access to the system from the Internet and access via dial in procedures are only opened when requested by authorised users and closed when work is complete.

- 6.1.3** The system and data is copied regularly for security and copies held securely on site in media fire safes and off site. This is the responsibility of the Councils ICT section.
- 6.1.4** There is one level of encrypted password which limits access to the Councils general systems to only recognised users. Each user is also assigned rights, which limits their working areas and software packages to those for which they need to carry out their job role. Access to the network (which is a pre-requisite for accessing the system) is monitored by IT staff and failed attempts to access recorded. Automatic controls close systems and revoke access rights upon three failed attempts to access the network. Inbuilt controls are in place to enforce the quality of network passwords.
- 6.1.5** To gain access to the benefit software you must be an authorised user and enter an individual password. In-built controls ensure passwords are changed frequently, are not re-used and conform to quality criteria. Automatic controls close systems and revoke access rights upon three failed attempts to open a service session. Each user is also allocated a security level within the application which again restricts what can be done within the system depending on the individual's role. The user set up and security levels are maintained and monitored by the Team Leader - Benefits.
- 6.1.6** Staff are advised to ensure that they do not leave their computers unattended or unlocked
- 6.1.7** Remote access is available but through a secure gateway which has full security measures as set out above..
- 6.1.8** All related paper documents are scanned to a corporate electronic document system. Access to Benefit related documents are restricted and controlled by job role and documents as standard cannot be edited. All paper documents held before scanning are stored securely each night in locked cabinets.
- 6.1.9** All access and entries made to all the systems are recorded against the user's name and date stamped

6.2 Control of access to premises

- 6.2.1** Locked doors, requiring swipe cards for entry, control access to the Benefits and Customer Services work areas. The Head of Central Services assigns rights of entry to those who have legitimate rights of access.
- 6.2.2** CCTV cameras cover all entry points to the building and the foyer area.
- 6.2.3** The post room and mail dispatch area is kept locked while in use and procedures are in place to control the receipt of valuables.

7.0 Preventative Measures and Processes

The Council has instituted a number of processes and preventative measures to safeguard the benefit system these include

7.1 Verification Framework

The Council adopted this framework several years ago, by adhering to the principles of this framework claim details and customers are thoroughly checked to ensure only eligible customers and accurate claim details enter the HB and CTB system.

7.2 Royal Mail do-not-redirect scheme

This Royal Mail facility ensures customers do not move address and continue to receive HB and CTB in respect of their former address. Undelivered mail is returned to our offices.

7.3 Data matching

Data matching exercises under the NFI and HBMS schemes have been successful in bringing to light not only overpayments of benefit but also fraudulent claims. We will continue to actively collaborate in these exercises. The policy for this work is contained in Appendix 7.

7.4 Customer information system (CIS)

CIS provides us with invaluable limited access to DWP records. This facility speeds enquiries considerably and provides timely up to date information.

7.5 Electronic transfer of data (ETD) and Automated Transfers to Local Authority Systems (ATLAS)

ETDs and ATLAS facilities are provided by the DWP and ensure that information relating to some DWP benefits and HMRC Tax Credit information is sent electronically the day after the information is available. This ensures we are advised of changes accurately and promptly which in turn ensures accuracy and speed of payments and reduces overpayments.

7.6 Changes of Circumstances

We actively promote customers to advise the Local Authority of any changes in their circumstances as well as proactively trying to anticipate any potential changes. This is done in a variety of ways via information on the application form, decision notices, investigation letters, website and use of future dated diary notes.

7.7 Service level agreements

Service level agreements are maintained with the Pension Service, Job Centre Plus and Valuation Office Agency (VAO). These are designed to improve performance standards and set targets that are monitored throughout the year.

7.8 Hotline

This permits members of the public to record their suspicions confidentially on a 24-hour basis. Regular publication of the number keeps this facility in the public eye.

7.9 Sanctions/Prosecutions Policy

Our policy (Appendix 6) publicly reinforces the Council's determination to use sanctions as a deterrent against benefit fraud.

7.10 Quality Control/Internal audit

Regular random checks on Benefit assessments are carried out – the actual percentage rate carried out is risk based and determined by what level of development the staff member is at and any previous error rate or identified issues. This helps maintain high levels of accuracy and identify any training needs. They also provide a countermeasure against internal fraud. In addition, internal audit also carries out cross checks against all of the Benefit and Investigation practices, procedures and outcomes on an annual basis

7.11 Investigation Team

The investigation team consists of a PINS trained officer managed by the Team Leader - Benefits who also has the PINS management qualification. Fraud files are kept in locked cabinets – access is restricted to the Investigation and Team Leader - Benefits. Suitable accommodation and equipment is available for conducting interviews under caution and for the delivery of cautions and administrative penalties.

7.12 Surveillance

From time to time some investigations require covert surveillance, in such cases Human Rights and Data Protection issues come to the fore. All surveillance work will be carried out in accordance with our corporate policy, Home Office code of practice and the Regulation of Investigatory Powers Act 2000 (as amended)(RIPA). Our officers are trained to abide by these rules and as set out in the Councils corporate RIPA policy. The Team Leader - Benefits is also the Councils Single Point of Contact (SPOC) for communications information gathering as appointed by the Councils Management team.

7.13 Joint Investigations

The investigation team enjoys good relations with its colleagues in the DWP and in other Local Authorities and collaborates with them on a regular basis. Joint investigations will be encouraged.

8.0 Detection

8.1 The Council is committed to maintaining the highest standards of probity. It expects the very highest ethical standards from its Officers and Members in order to protect its good name with the public. It would be unacceptable to ignore potential fraud and procedures are in place whereby staff can raise concerns in confidence without fear of reprisal.

8.2 Procedures and work instructions outline the process to be followed where a fraud is suspected involving customers and their partners, landlords or employers. Benefit and Customer Service staff are trained in these.

8.3 Where suspicion falls on Officers or Members then in the first instance this is to be reported to one of the following:

- People Manager
- Head of Service

- Monitoring Officer
- Chief Executive
- Internal Audit Manager

9.0 Outcomes

- 9.1** We have set performance targets to measure the success of our strategy in terms of outcomes. These will be monitored quarterly and reported to the Transformation Board. These are reviewed annually to ensure their effectiveness.
- 9.2** The Governance Committee will receive progress reports on the work of our investigation team as required, the sanctions imposed and the amount of overpaid benefit recovered.

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OVERPAYMENT POLICY

1.0 Introduction

Melton Borough Council has responsibility for the recovery action taken on Housing Benefit (HB) and Council Tax Benefit (CTB) overpayments. This includes deciding whether an overpayment (OP) has occurred and whether it is recoverable either as a whole or in part. This discretion also includes whether to recover a recoverable OP or not where appropriate circumstances dictate i.e. ill health etc. We must identify the amount overpaid, the period during which the OP occurred and decide whether it is legally recoverable. This is done in accordance with current legislation and official guidance. Part of this process is to notify the person affected by the OP and take recovery action, if appropriate. Care must be taken to correctly classify the OP accurately, so that the correct rate of subsidy can be claimed. The Council is committed to recover overpaid HB and CTB wherever possible.

2.0 Council policy

This document supports the Council's corporate outcomes through the Corporate Service plan as follows

- Supporting people and businesses through the economic downturn
- Improving the well-being of vulnerable people
- Meet the economic needs of the Borough
- To provide high performing services that are efficient and meet customer's needs

3.0 Administration

This policy will be administered in accordance with the guidance issued by the DWP and the IRRV on debt management. All decisions in respect of overpayments and their classification will be in accord with current legislation, DWP guidance and our own procedures and work instructions.

4.0 Definition

Overpayments are amounts of benefit which have been paid but to which there is no entitlement under the regulations. Overpayments occur where benefit entitlement is revised.

5.0 Establishing the cause

The cause of an OP will be established in order to

- decide whether or not it is wholly or partially recoverable. Non recoverable amounts will be certified by authorised officers depending on the amount of OP (as set out in the Councils constitution). Generally speaking, all overpayments are recoverable except where they are due to official error. If an official error has occurred and we are satisfied that the claimant/landlord has not contributed to that error and could not reasonably have been expected to be aware that benefit has been overpaid, the OP is classed as non-recoverable and would need to be written off – see section 8 for full details.
- correctly notify the customer or the person we are seeking to recover from (if not the customer) and any other person affected.
- claim the correct amount of subsidy.

Note: In cases of direct payment to landlords unless we can establish that the landlord contributed to both the amount and the period of OP we will seek recovery from the tenant where this is more appropriate. We will never require repayment from a landlord who has exposed the suspected fraud (HB Reg. 101).

6.0 Recovery Procedure

The council has adopted a **firm but fair policy** towards the collection of outstanding debts. Debtors will be given every opportunity to reach a satisfactory arrangement for the repayment of their debts. If the debtor makes contact at any point during the recovery process a suitable repayment plan can be negotiated. The repayment plan will be tailored to the individual circumstances of the customer but in general, a target of repayment within one year will be sought. The Team Leader – Benefits must approve any arrangements extending beyond this time scale.

The process for recovering overpaid HB (if recoverable) is

- A decision notice will be raised and sent to the person/s affected informing them that an OP has occurred, the reason why and how the amount has been calculated. This will normally be issued the day after an OP is raised. Details of the appeal procedure will also form part of the decision notice.
- If an appeal is lodged no further recovery will take place until the appeal has been fully determined, this will include up to any possible tribunal hearing. If no appeal is lodged or it has been fully determined and there is still an OP, recovery will take place as set out below.
- If the customer is still receiving HB and the OP is deemed to be recoverable from them, an on-going deduction will be made from their current entitlement. Any such deduction will be in line with DWP guidelines although serious consideration will be taken regarding any request from the customer in respect of varying the amount of the deduction.
- If the customer is still receiving HB and the OP is deemed to be not recoverable from them, an invoice will be raised to the relevant party unless one of the next two scenarios applies.
- One month after the calculation of the OP and the customer is no longer entitled to HB and the customer was in receipt of Rent Rebate a check should be made of their rent account to see if there are any available credits that can be

associated with the OP. If there is such a credit this will be used to reduce or clear the OP and the customer advised accordingly. If there are no credits or there is still an outstanding balance to recover an invoice will be raised.

- One month after the calculation of the OP and the customer is no longer entitled to HB and the customer was in receipt of Rent Allowance a check should be made of the bank reconciliation to see if there are any cheques that have not been cashed. If there any such cheques stop notices should be placed with the Finance team and once they are confirmed as being stopped the amount/s should be used to reduce or clear the OP and the customer advised accordingly. If there are no uncashed cheques or there is still an outstanding balance to recover an invoice will be raised.
- If no payment, arrangement made or response is received a reminder notice will be issued 28 days after the invoice is issued.
- If no payment, arrangement made or response is received after a further 14 days a Final Notice will be issued.
- Following the issue of the Final Notice, if no payment, arrangement made or response is received after 14 days the case is referred to the Team Leader - Benefits via the aged debt spreadsheet to consider legal action.
- The case is then referred for legal action if it is appropriate to do so. (e.g. no new information has come to light, it is economic to do so, it is in the public interest, no other recovery method can be applied – see section 7 for full details)

7.0 Other forms of recovery

Where customers are in receipt of certain other prescribed benefits e.g. Income Support, Attendance Allowance, Invalid Care Allowance, Mobility Allowance or State Pension (the list is not exhaustive) an application can be made to DWP for a deduction to be made directly from that benefit.

In the case of an OP to be recovered from a landlord a blameless tenant deduction can be made from another tenant of that landlord's HB entitlement that is being paid direct to that landlord.

If the customer moves to a new area and continues to receive HB at their new address, a request can be made to the Council for that area to make a deduction from their HB entitlement at their new address.

In respect of CTB overpayments, these will automatically be clawed back in full from the customers Council Tax account.

8.0 Accounts to be written off

Once recovery has commenced, at intervals of not more than three months, progress on recovering debts will be reviewed by the Team Leader – Benefits where appropriate. Where it is apparent that the debt may be unable to be recovered and all means of collection exhausted, then the debt will be submitted for write off. However, if the customer subsequently qualifies for HB then the debt will be reinstated and recovery recommenced where appropriate. Dependant on the amount the authorising officer needs to be as follows

- amounts of less than £100 – Head of Communities and Neighbourhoods
- amounts between £100 and £1,000 – Head of Central Services
- amounts over £1,000 – Head of Central Services in conjunction with the Head of Policy Finance and Administration Committee

9.0 Bankruptcy and Debt Relief Orders

Where bankruptcy proceedings have been commenced and or Debt relief orders are in place guidance needs to be sought as to whether we can proceed with recovery or not as per circulars

10.0 Tracing Absconders

We will use all legal means available to trace the forwarding address of a customer, including contacting their landlord, checking CIS and using Experian.

11.0 Performance Management

A quarterly review of the percentage recovered will be undertaken to measure the effectiveness of these measures against targets set in the performance framework. OP recovery statistics will be reported to Transformation Board, Governance Committee and the DWP on a quarterly basis.

12.0 Strategy for continuous improvement

The Council recognises the need for continuous improvement in its services. In order to see this process working in the recovery of our overpaid benefits, we will adopt the following strategy.

We will use our quarterly performance monitoring systems to maintain and inform an overview of the success of our collection procedures and then tailor our actions to responding to the changing dynamics of the environment in which we are operating.

We accept that improved performance will not always be determined by purely increased collection rates but should be judged in the broader context of enabling other criteria, such as promoting key Council priorities (including our firm but fair collection policies) and our aim to reduce fraud and error in the system thereby reducing the amount of overpayments to be recovered.

COMMUNITIES AND NEIGHBOURHOODS & CUSTOMER SERVICES DECLARATION OF INTEREST FORM

All staff working for the Council are expected to display conduct, which is beyond reproach. We all accept this as part of the job and would expect nothing less when dealing with public funds.

Sometimes we need to be open and proactive in illustrating that we meet these high standards. This is for two main reasons:

- To give the public the assurance they need; and
- To protect us from unjustified allegations and accusations.

It is in this spirit that staff that work within Customer Services and Communities and Neighbourhoods that deal with Housing and Council Tax Benefit are being asked to complete the following document:

Declaration of Interest form – this relates to various Housing Benefit and Council Tax Benefit matters. It is important to remind you that you must not handle any matter which involves yourself, your family, your friends, your business associates or, as a landlord, your tenants.

I would ask you to read, complete, sign and return the document to the Team Leader – Benefits without delay.

Whilst working within the Customer Services and Communities and Neighbourhood Services you will be required to complete this form on an annual basis.

I should stress that we have had no major problems in this connection and staff should not put any interpretation on this action other than noted above. If any employee is uncertain of his/her position and would like clarification of any issues raised within these forms, they should discuss this with their line manager.

Any changes to the information that you have provided on these forms should be reported to your line manager immediately.

Thank you for your assistance in this matter,

Ronan Browne
People Manager

DECLARATION OF INTEREST

I understand and accept that I must display conduct of the highest standard and consequently I declare that when dealing with Housing and Council Tax Benefit matters that I will not handle any cases which involve my own records or the records of my family, friends, associates or tenants

I understand that within my role within Customer Services and Social and Economic Development Service I will have access to vast amounts of confidential information. I will only access/disclose such information in accordance with the principles of the Data Protection Act 1998.

1. Your name and address

Do you currently or have received Council Tax Benefit and/or Housing Benefit at the above address or a previous address (please insert **X** in box that applies to you)?

Yes No

If the answer to the above is **yes** please confirm which benefit(s) you receive

Does any member of your family receive Council Tax and/or Housing Benefit in respect of a property in the Melton Borough

Yes No

If the answer is yes please can you indicate their name and address below

Do you currently receive any other form of Council Tax relief, discount or exemption in respect of this property? (Please insert **X** in box that applies to you)

Yes No

If the answer to the above is **yes** please confirm which of the above you receive

2. Interest in any other property(s) within the Melton Boundary

Do you have any interests in any **other** property(s) within Melton Borough boundary i.e. where you are the owner, landlord, tenant or act as agent etc? (please insert **X** in the box that applies to you)

Yes No

If the answer to the above is **yes** please confirm the address and state your interest in this property(s)

3. Shared household with landlord/agent, tenant or person claiming Council Tax/Housing Benefit

Do you share a household with a landlord/agent, tenant or anyone claiming Council Tax Benefit and/or Housing Benefit? (please insert **X** in the box that applies to you)

Yes No

If the answer to the above is **yes** please confirm the address of the property concerned and details of that person(s) i.e. name and relationship to you

4. Benefit fraud or suspected benefit fraud

Have you ever been subject to disciplinary action as a result of benefit fraud or suspected fraud? (please insert **X** in the box that applies to you)

Yes No

If the answer to the above is **yes** please confirm details below

Have you ever been convicted of any criminal offences related to benefit fraud or received a Formal Caution for benefit offences or accepted an administrative penalty for benefit offences? (please insert **X** in the box that applies to you)

Yes No

If the answer to the above is **yes** please confirm details below

5. Interest in any company that Melton Borough Council has dealings with

Are you a director of, or do you have any financial stake in any company that Melton Borough Council has dealings with? (please insert **X** in the box that applies to you)

Yes

No

If the answer to the above is **yes** please confirm details below

6. Declaration: (Please read the following declaration and then sign & date the form below)

- I declare that the information provided on this form is correct and complete
 - I declare that I will immediately report any change to the above information to my line manager
- I understand that that any false declaration or failure to report changes promptly to the declaration may lead to disciplinary action

Your Name

Date

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Code of Conduct for Benefit Investigation and Visiting Officers

Melton Borough Council expects its Investigation staff and Visiting staff (referred to as Investigators) to comply with the Council's Code of Conduct as supplied to them in the staff handbook.

In addition to the Code of Conduct Investigators will observe the following rules which will apply to both office based enquiries and visits

- Investigators should maintain the highest standards of professionalism, specifically covering areas of personal conduct, knowledge and operational activity. Any information or evidence to be used in an official capacity must be obtained lawfully and recorded accordingly.
- Investigators will treat all persons suspected of Housing/Council Tax Benefit fraud with respect and courtesy at all times. At all times during an investigation, the Investigators should consider and observe the rights of any individual that they are interviewing or investigating. It is the duty of the Investigator to establish the facts of the case and not make conclusions based on intuition or supposition.
- Investigators will undertake training to include dealing with potentially violent people/situations, the interviewing techniques and questioning of allegations of "living together" and any other training relevant to their post.
- Investigators will have to undertake the Professionalism in Security (PINS) examinations or equivalent.
- Investigators will at all times follow the Home Office Code of Conduct when interviewing under the Police and Criminal Evidence Act (PACE).
- Investigators will keep proper and accurate records on all aspects of investigation with particular reference to issues of confidentiality so that information is passed only to those who are entitled to it.
- Investigators will declare, to the People Manager all cases of alleged fraud where an investigator has an interest. An interest is defined as pecuniary interest in an alleged fraud or a personal/family relationship with any persons involved in a benefit claim under investigation.
- The investigator must be aware of the potential for violence from persons under investigation and should not place themselves in a situation where there is a risk of attack.
- Investigators will ensure that unannounced visits will be made between the hours of 8.30 am and 5.00 pm, any unannounced visits to be made outside these hours must be authorised by the Team Leader – Benefits. Due consideration must then be given to the

Investigators safety when authorising unannounced visits outside office hours.

- All Investigators will identify themselves at a property and will at all times carry an identification card.
- Investigators must have due regards to the individuals requirements when interviewing. They must ensure that the individual's needs are catered for when identifying and interviewing
 - Elderly people
 - Visits to women who live alone
 - People who do not speak English or who are not fluent in English
 - People with learning difficulties
 - People who suffer from mental health problems
 - People with disabilities
 - People who are aggressive or distressed.
- When Investigators interview people who are vulnerable, aggressive or distressed they must record this fact in the interview notes.

Declaration

I have read and understood the Code of Conduct. I agree to work within the principles of the Code. I will advise my Line Manager immediately in writing should my circumstances change.

Signed

Date

Officers Name

Position Held



Additional Requirements for Melton Borough Council Staff Claiming Housing and/or Council Tax Benefit

The Local Authority administers Housing and Council Tax Benefit and is responsible for investigating Benefit Fraud. As you or your partner (if applicable) is claiming Housing and/or Council Tax Benefit or you are receiving Housing Benefit payments as a landlord on a property/room that you rent out and you are currently employed by the Local Authority, it is very important that you read and understand the following information.

Our Promise to You

- ✓ We will treat your claim information as completely confidential.
- ✓ We will store your claim documentation in a secure environment away from other benefit files.
- ✓ Your claim details held within our benefit software system will only be made accessible to members of the Communities and Neighbourhoods Benefit Team.
- ✓ Any claim that your details as a landlord are held on will also be stored securely and only accessible by a member of the Communities and Neighbourhoods Benefit Team.
- ✓ A member of the Communities and Neighbourhoods Benefit Team will deal with you or your partners claim and will be your designated point of contact.

Your Responsibilities as a Customer

- ✓ All Housing and Council Tax Benefit entitlement is based on income, capital, household and address details.
- ✓ Any changes in income, capital, household or address must be reported to the Communities and Neighbourhoods Benefits Team **immediately**.
(see overleaf for examples of the types of changes we need to know about)
- ✓ Failure to report any changes in your circumstances (any income of the household or change in household members) or any changes in your tenant's circumstances is a criminal offence which could result in prosecution.
- ✓ In addition to a potential criminal sanction, any breach of benefit rules by an employee will be considered to be the most serious breach of discipline which could result in a dismissal on the grounds of gross misconduct / serious breach of trust. This will apply to all employees of the Council, not just those working in the Communities and Neighbourhoods or Customer Services service areas.

I declare that I have read, and understood, the implications of the above information.

Signed:

Name :

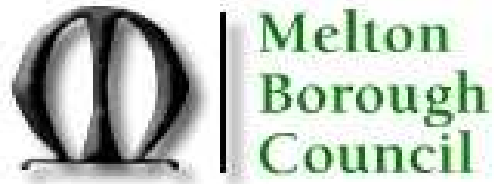
Dated:

Please notify the Communities and Neighbourhoods Benefits Team immediately if any of the following changes occur:

- ✓ You or your partner start work or change your job
- ✓ You or your partner change the number of hours you work
- ✓ Someone moves in with you or moves out of your house
- ✓ You or your partner have a baby
- ✓ You or your partner's tax credits change
- ✓ Any of you or your partner's benefits or pensions change
- ✓ Any other income changes
- ✓ Your rent changes
- ✓ You move home
- ✓ The income of anyone in your household changes
- ✓ The amount you or your partner have in savings/capital changes
- ✓ Your tenant moves out
- ✓ Where known, of any other change in your tenants personal or financial circumstances, as set out above

This list is not exhaustive.

Please make sure you notify any other changes to your circumstances.



ARREST POLICY

Contents

- 1.0 Introduction
- 2.0 Local Authority Responsibilities
- 3.0 Police Responsibilities
- 4.0 Service and Performance Requirements
- 5.0 Monitoring Requirements
- 6.0 Freedom of Information Act 2000
- 7.0 Extract from Section 24 of Police and Criminal Evidence Act
- 8.0 Equalities

1.0 Introduction

1.1 Melton Borough Council are responsible for investigation alleged offences against the benefit system. The authority administer a sanction and prosecution policy for those customers who are found to have committed offences associated with fraud. To this end, investigative and judicial processes are fully undertaken by the Investigation team and prosecutions are pursued via the Councils' Legal Services Department or the Crown Prosecution Service.

Alternative sanctions are an option where a prosecution is deemed to be not the most appropriate initial action these are administered by the Team Leader - Benefits – fuller details are set out in the Sanction/Prosecution Policy. The Sanction/Prosecution Policy has proved to be robust and workable and its application has resulted in numerous successful prosecution and sanction cases.

1.2 Melton Borough Council acts in accordance with all the relevant legislation when undertaking its functions, including the Police and Criminal Evidence Act 1984, Criminal Procedure and Investigations Act, Regulation of Investigatory Powers Act to name but a few. However, the team does so without any formal powers of arrest and as a result, all of its enforcement is undertaken on an entirely voluntary basis. In the majority of cases, this lack of a power of arrest poses no great problem as in the main, alleged offenders attend appointments for interview under caution, following receipt of a letter requesting voluntary attendance. In all instances, this would be the preferred option. On some occasions, there may be a degree of reticence to attend, but this is usually resolved by the sending of a further letter, hand delivering a third and final letter or making direct contact, either by telephone or by visit.

1.3 However, there are instances when all practical measures have been taken and the alleged offender simply refuses to attend as requested. On such occasions the practical assistance of a police officer would prove beneficial. Indeed, it may be that a final letter containing a warning to the effect that failure to attend will result in the alleged offender being arrested may result in voluntary attendance. This document is intended to address these areas.

1.4 It has been agreed that, after all practical measures have been taken, and the alleged offender still fails to attend an interview under caution, with police assistance he/she can be visited, arrested and bailed to attend a police station at a pre-arranged time/date whereupon he can be interviewed by the Councils' Investigating Officer. Should he/she fail to attend as arranged, they will be subject to further arrest and taken into custody pending interview again by the Councils' Investigating Officer. They will subsequently be released for the Council to pursue a prosecution through their Legal Services Departments by way of summons.

1.5 It is the expectation that the policy will only need to be invoked on an extremely rare occasion as the Council to date have experienced only an extremely small number of cases where the customer absolutely fails to respond to our requests for attendance at interviews under caution etc, however on those occasions the threat of arrest may have been sufficient to resolve the issue more effectively and satisfactorily. Therefore Melton Borough Council are dedicated to build and maintain our already good working relationship with Leicestershire Police with a view to promoting a zero tolerance approach to individuals who hold the mistaken belief that they will escape justice by ignoring the process.

2.0 Local Authority Responsibilities

- 2.1 In cases where there is a request for a suspect to be arrested, there has to be strict procedures and controls in place in order for the Police to be able to comply. This is because there are requirements that have to be fulfilled before the Police themselves can consider an arrest.
- 2.2 Section 24(5)(e and f) of the Police and Criminal Evidence Act 1984, permits the arrest of suspects 'to allow the prompt and effective investigation of the offence or of the conduct of the person in question' and 'to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.'

The Police have constraints regarding when they can apply their powers of arrest. For the purpose of this report the relevant powers of arrest are:

- A person is in the act of committing certain offences or,
- There are reasonable grounds for suspecting a person is committing certain offences.

Officers will have to satisfy themselves of "a person's involvement, suspected involvement or attempted involvement in the commission of a criminal offence" and that there are "reasonable grounds for believing that the person's arrest is necessary."

- 2.3 Where it is deemed appropriate to exercise this power, any decision to request the arrest of a suspect (or suspects) will be made by the Councils' Investigating Officer, in conjunction with the Team Leader – Benefits and the People Manager. The decision to do so will be made on a case by case basis, and will take into account all evidential and operational factors.
- 2.4 This raises a number of principles that must be addressed by the applicant before a request to have someone arrested is made by the Authority
- The person must be committing/have committed the offence or be reasonably suspected to be committing the offence - generally speaking most benefit offences are prosecuted under the Social Security Administration Act 1992; The Fraud Act 2006; The Theft Act 1968 and constitute either making a false declaration in order to obtain benefit or failing to notify a change of circumstances which has an effect on any benefit. The suspect is committing the offence until such time as he corrects the false declaration or correctly reports the change. For the Police to be able to effect the arrest, sufficient evidence that there are reasonable grounds to suspect that he/she is committing the offence, must be provided at the time of making the request.
 - Although the Police now have the discretion to detain anyone if they suspect they are committing any offence, they must think that an arrest is "necessary". Therefore, prior to the matter being referred to the Police, every effort must have been made to pursue the matter by alternative means and the evidence of this presented to the Police at the same time - attempts have been made to arrange the interview under caution voluntarily and should include copies of the original letter, reminder letter, final warning letter delivered by hand or by recorded delivery and evidence that the suspect is reasonably believed to be still resident at the address to which the correspondence was sent (Appendix One)

- The LA will also have to make and provide details of the arrangements in place to ensure that an officer is available at short notice in order to undertake the interview under caution should the suspect be arrested as requested. Ordinarily, if the individual is to be bailed to attend a Police station, the time and date will be agreed beforehand. If the individual failed to attend after being bailed and has been arrested again, details provided to the police will include both telephone numbers of the officer in the case and alternative officers should he/she not be available and the location of the investigation file.

2.5 This will be demonstrated by the Investigating Officer making the request by completing the appropriate documentation which will then be approved by the Team Leader – Benefits and People Manager before being passed to the Police for action.

3.0 POLICE RESPONSIBILITIES

3.1 Leicestershire Police will allocate an appropriate officer upon a request who will be assist Melton Borough Council in carrying out this arrangement.

3.2 Leicestershire Police will make time available to assist the Council with reported cases within 28 working days of the report being made, allowing for major incidents/work commitments.

3.3 The allocated police officer (APO) will satisfy themselves as to whether there are any additional matters outstanding, which may require Police action (outstanding warrants etc) in respect of the arrestees, which may be dealt with at the same time. If there are such issues, the APO will advise the Councils' Investigation Officer of such issues prior to a visit to the customer being arranged.

3.4 When it is decided to arrest the benefit customer the APO will arrange for the transfer of that person(s) at a mutually agreed time and date wherever possible, to the appropriate Police Station or if subject to 'doorstep bail' notifying the Investigation Officer (IO) of the time and location for attendance.

4.0 SERVICE AND PERFORMANCE REQUIREMENTS

Requirement	By Whom?	Standard
Maintain regular contact between organisations	IO and APO	Informal liaison meeting every six months or as often as is felt necessary
Ensure that all IO's and Police Officers have received relevant guidance prior to commencement	IO and APO	As a requirement
Provide up to date telephone lists of contact points	IO and APO	Provide within 7 days of changes taking place or as reasonably possible
Arrange meeting/tel call to discuss each case referred to agree time/date of bail	IO and APO	Initial meeting/tel call to take place within 28 days of initial contact
If agreed arrange visit to customer's address	APO	Visit to take place within 28 days of initial contact to arrest and bail
If bailed notify IO	APO	Within 7 days or 14 days before date of reporting on bail

If fail to attend arrange meeting/tel call to discuss and to agree time/date of arrest	IO and APO	Within 7 days or 14 days before date of arrest
Notify IO of arrest	APO	Immediately on arrest
IO to attend to interview under caution	IO	As soon as practicable
Performance to be monitored and redefined as required	IO and APO	Performance discussed at liaison meetings as felt necessary
Any case disagreement to be discussed and solved	IO and APO	To be resolved at referral meeting

5.0 MONITORING REQUIREMENTS

5.1 The performance to standards set out within this agreement will be monitored by both parties and discussed at the agreed liaison meetings. Any problems in meeting the performance standards and requirements will be addressed at that point.

6.0 FREEDOM OF INFORMATION ACT 2000

6.1 Both parties to this agreement have a working understanding of this legislation, and the responsibilities it places on their respective organisations. Any request made for any information under this legislation, will be considered on the individual merits. It is, however anticipated, that many of these requests may well be covered by exemptions in the legislation, in particular sections 30, 31, or 40.

7.0 POLICE AND CRIMINAL EVIDENCE ACT – SECTION 24

Extract from Section 24 of the Police and Criminal Evidence Act 1984

iii) The exercise of the arrest power will be subject to a test of necessity based around the nature and circumstances of the offence and the interests of the criminal justice system. An arrest will only be justified if the constable [or SOCA designated person] believes it is necessary for any of the reasons set out in section 24(5).

(iv) Arrest must never be used simply because it can be used. The use of the power must be fully justified and officers exercising the power should consider whether the necessary objectives can be met by other, less intrusive means, such as summons, fixed penalty notice, penalty notice for disorder; or by using street bail following arrest rather than taking the person to the police station.

*(vi) An officer must have reasonable suspicion before he/she arrests a suspect. The officer does not have to witness the offence him/herself and can rely on information provided by other sources such as a colleague or an entry on PNC **but** an order from a superior officer to arrest a person would not meet the requirement.*

8.0 EQUALITIES

8.1 This policy is designed to resolve an issue whereby it could be argued that a degree of

discrimination already exists in the area of counter benefit fraud provision, in that those members of the community who voluntarily comply with the investigative process are more likely to face some form of sanction than those who do not.

- 8.2** For all practical purposes, at the conclusion of an investigation there is a requirement to prove either that the alleged offender 'knew' what they were doing or that they were acting 'dishonestly.' In the majority of cases this can only be established as a result of interviewing the individual in accordance with the relevant legislation.
- 8.3** However, there are a minority who refuse to comply with a voluntary request to attend such an interview and who require compelling – as it stands the Authority has no powers to undertake this and therefore proposes to formalise a process with the Leicestershire Police who will assist when required.
- 8.4** The policy is designed to ensure even handedness when ensuring that individuals are asked the questions, irrespective of whether or not they choose to answer them.

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SANCTION/PROSECUTION POLICY

1.0 Introduction

This document sets out the Council's approach towards dealing with benefit fraud once it has been established. A number of sanctions are open to Councils including Cautions, Administrative Penalties and Prosecutions. Local Authorities can prosecute for offences, including other benefits ie Income Support under the Social Security Administration Act 1992 when a customer either makes a false declaration or false documents in order to obtain benefit or knowingly fails to declare changes in circumstances promptly.

2.0 Purpose

Deterrence is the cornerstone of this policy. The message should be clear **Benefit Fraud is theft**. Where fraud is proven, an appropriate sanction will hopefully dissuade the offender and others from re-offending. By publicising successful prosecutions a firm message is sent to all who might be thinking of attempting the same thing.

3.0 Fraud defined

Fraud is defined as the use of deception or misrepresentation of records or facts to obtain a material/financial gain or some similar advantage. This would normally relate to the organisation's assets, income, expenditure or other interests. In respect of subsidy classification an overpayment can only be categorized as Fraud if a sanction is offered.

4.0 Legislative powers

The Theft Acts of 1968 and 1978, the Fraud Act 2006 together with the Social Security Administration Act 1992 provides the legal framework under which prosecutions can be brought.

5.0 Imposing sanctions – Guidelines

5.1 Each case will be determined having regard to its individual circumstances; the criteria set out in section 7 will be used to assist this process. Where it is determined a sanction should be imposed, the appropriate one will be determined having regard to the following guidance:

5.1.1 No sanction will be offered or prosecution commenced unless the Council is satisfied that the evidence is sufficient, admissible and reliable. There must be a realistic prospect of conviction having regard to the full circumstances of the case. This will form the evidential test.

5.1.2 When imposing a sanction regard must also be given to the test of rationality to ensure a sanction is not imposed which is greater than any sentence a court might impose

5.1.3 If a sanction is offered as an alternative to prosecution but refused, serious consideration must be given to progressing to a full prosecution even if it is a small amount.

5.1.4 Alternative sanctions will be offered by the Team Leader – Benefits level and above.

5.1.5 The Council will always seek to recover any costs incurred in pursuing prosecution.

5.2 Sanction options

5.2.1 Formal Cautions

A formal caution can be offered as an alternative to prosecution but it can only be considered if an admission is obtained from the customer during an interview under caution to the effect that they had adequate knowledge of their duties in respect of their benefit claim and they failed to carry these out. A caution properly administered leaves the customer with a strong message that they have done wrong, but that they will not be prosecuted this time. It lends weight to the proceedings and is best employed where the amount involved is not sufficient to warrant the cost of a prosecution. Proven frauds involving theft of relatively small amounts of benefit covering relatively short periods of time (less than we would prosecute for) could be properly dispensed with in this way.

5.2.2 Administrative Penalties

An Administrative Penalty can be offered as an alternative to prosecution, unlike a caution no admission is required just sufficient evidence we would be able to successfully prosecute. An Administrative Penalty to all intents and purposes is a fine and the amount payable is set within the Benefit regulations therefore the Council has no discretion over the amount of the penalty The amounts are as follows

- 30% of the total amount of benefit overpaid as a result of the offence being committed for offences that are committed **prior to 08.05.12** with a 28 day cooling off period
- £350.00 minimum penalty or 50% of the total amount of benefit overpaid as a result of the offence being wholly committed **after to 08.05.12** with a 14 day cooling off period

An Administrative Penalty properly administered also leaves the customer with a strong message that they have done wrong, but that they will not be prosecuted this time. It lends weight to the proceedings as it penalizes them further financially. It is best employed where the amount involved is not sufficient to warrant the cost of a prosecution. Proven frauds involving theft of relatively small amounts of benefit covering relatively short periods of time (less than we would prosecute for) as well as attempted fraud where no actual benefit was obtained due to timely intervention could be properly dispensed with in this way.

5.2.3 Prosecutions

The Local Government Act 1972 (Section 222) gives authorities the right to prosecute or appear in any legal proceedings. The costs of bringing a case to court mean that frauds of less than £5,000 should not normally be considered for prosecution as a first action unless there are special circumstances which may incline you to do so ie blatant fraudulent activity or where a stronger deterrent may be warranted. For any cases

above this figure (subject to the considerations outlined in section 7) if there is sufficient evidence to make a conviction likely then a prosecution should proceed. A joint decision at officer level should be taken as to the appropriate legislation to take any charges under, particularly in cases with an OP value in excess of £20,000.

5.2.4 Loss of Benefit Provisions (One Strike)

From 1 April 2010, a new four week loss or reduction of benefit sanction One Strike has been introduced. One Strike sanctions apply to benefit fraud offences committed on or after 1 April 2010 that result in a successful prosecution or sanction being offered and accepted. One Strike can only be applied to certain benefits – Housing Benefit and Council Tax Benefit being two of them. Whether the sanction will be applied or not, the amount and period it applies to are all determined by the DWP. The Council has no discretion to make these decisions therefore must carry out any instructions given by DWP in regard to this. If a one strike sanction applies it will result in a loss of between 20 and 40% of their weekly benefit for a period of four weeks.

5.2.5 Loss of Benefit Provisions (Two Strikes)

This legislation has been in place since 1 April 2002 and is in addition to the above. Two Strike sanctions apply to customers who have been convicted of a second benefit offence within 3 years of a previous offence where it was committed before 1 April 2008 or within 5 years of a previous offence where it was committed on or after 1 April 2008. One Strike can only be applied to certain benefits – Housing Benefit and Council Tax Benefit being two of them. Whether the sanction will be applied or not, the amount and period it applies to are all determined by the DWP. The Council has no discretion to make these decisions therefore must carry out any instructions given by DWP in regard to this. If a one strike sanction applies it will result in a loss of between 20 and 40% of their weekly benefit for a period of 13 weeks.

6.0 Sanction criteria - Guidance notes

The conclusion of an investigation may result in a Fraud being established. In such cases consideration will be influenced by the factors below, on an individual basis, in deciding what sanction is appropriate. Where the case involves joint working with the Department for Work and Pensions (DWP) and they are the lead investigation team, due regard will be given to their policy.

- the seriousness of the offence and the number of times the offence has been previously committed.
- the amount of fraudulent benefit overpaid together with the duration the fraud continued. Small amounts, unless persistent, may not be economical to prosecute.
- the customer's physical and mental capacities.
- the customer's social factors e.g. age, family circumstances or language difficulties.
- whether there was collusion or any premeditated intent.

- conformity to legislative requirements of both documentary evidence and manner of enquiries undertaken.
- the customers voluntarily disclosure of the fraud prior to investigation.
- whether proceedings are within any time limits set for prosecution.
- any other extenuating factors pertinent to the case.

7.0 Procedure

- 7.1** Once all enquiries have been completed by the Benefit Investigator they will make a recommendation as to which sanction is appropriate to the case and pass the file to the Team Leader – Benefits for consideration.
- 7.2** The Team Leader – Benefits will then review the case and duly consider the recommendation and authorise the appropriate sanction or not. If a sanction other than prosecution is to proceed, the Team Leader - Benefits will pass the case back to the Investigating Officer to arrange a suitable appointment and advise the customer in writing accordingly. If a prosecution is determined as the most appropriate the case must be passed for further authorisation to the People Manager.
- 7.3** If a prosecution is to proceed a basic plea file will be prepared by the Investigating Officer. Prosecutions will be carried out either by the Council's own solicitor, the Crown Prosecution Service or by mutual arrangement with a neighbouring Local Authority's solicitor.
- 7.4** In the case of any joint investigations the decision to prosecute will rest with the lead investigating team although we still treat each case on its own merits and may decide that another sanction is more appropriate than a prosecution. Liaison with the DWP will be maintained as this is crucial to ensure a common approach in cases where legal proceedings are being considered.
- 7.5** Decisions to prosecute must be fair and consistent. It is recognised that a decision to prosecute is a serious step.

8.0 Recovery of Overpayment

In addition to considering a sanction, the Council will also seek to recover the full fraudulent overpayment in accordance with its Overpayment Policy (see Appendix 1). If relevant the powers contained within the Proceeds of Crime Act 2002 (Asset Confiscation) will be used.



Data Matching Policy

Data matching is an important means of identifying fraudulent claims for benefit. Every year significant frauds are identified using this means.

1.0 Data Matching defined

Within this policy data refers to personal information such as name, address, date of birth etc., which is held in paper or electronic format. Data matching is the process wherein data from various sources is electronically compared and cross checked in such a way that inconsistencies can be highlighted.

This can be accomplished on a national scale, cross checking such records as council payrolls against benefit data. Inconsistencies are then related back to Local Authorities for investigation.

An example of the type of inconsistency that can be identified using this means is where a benefit customer is in receipt of a private pension that they have not declared.

2.0 Where the data comes from?

The data used for matching comes from different sources, these include

- Melton Borough Council - which holds data in connection with claims for Housing Benefit and Council Tax Benefit
- The Department for Work and Pensions (DWP) - which has a number of computer systems, each containing information relating to other state benefits and National Insurance contributions
- Other councils hold data on their pay-roll systems of salaries, wages, student grants and pensions

3.0 Who matches the data?

There are two main data matching agencies and exercises, the DWP (Housing Benefit Matching Service (HBMS)) and the Audit Commission (National fraud Initiative (NFI)). HBMS matches are generated by the Council submitting an extract of their Housing Benefit (HB) and Council Tax Benefit (CTB) data to the DWP on a monthly basis. This data is then compared to the national information that they hold and any potential discrepancies that are found are raised as matches to the Council for investigation.

NFI matches are generated by the Council submitting extracts of a variety of data they hold - not only HB and CTB once every two years to the Audit Commission for their national data matching exercise and any potential discrepancies that are found are raised as matches to the Council for investigation.

4.0 What we do with the data?

Data matching will only identify cases where there appears to be an inconsistency. Data matching agencies forward details of inconsistencies (called referrals) to the appropriate council for further action. The information includes names, addresses and details of the information forming the referral.

Upon receipt of the data the Investigation Officer compares the referred data with HB and CTB records to ensure the validity of the referral this includes

- whether the Council has received further information since the date of the match
- whether the Council had delayed in acting upon the information at the time of the match
- whether there has been an official error in the assessment process which has contributed to the discrepancy
- whether the data match is relevant or not

If the referral shows that the customer may not have declared the correct information, the Investigating Officer will treat the claim in exactly the same way he would any other referral and pass the referral for risk scoring and ultimately conduct an appropriate investigation where applicable.

5.0 Security of data

At all times the data is treated as highly confidential. Files are kept in locked cabinets and data is retrieved and sent via encrypted files, secure GCSX email accounts and secure websites. Officers working on this data are bound by the policies and codes of conduct as set out in the Councils Benefit Security Strategy.

6.0 Staff consultation

If data being compared includes the personal data of Council staff, then prior to the commencement of the data match, staff representatives will be consulted and all staff notified by memorandum – usually included as a message in their wage slip.

7.0 Principles of Data Protection and Human Rights

At all times the rights and responsibilities laid down in legislation pertaining to the rights of the individual and data protection will be observed and all staff are bound by this requirement.

In particular the following requirements must be observed

7.1 Data Protection Act 1998

Data will be held in accordance with the principles of the Data Protection Act 1998 (Schedule 1, part 1).

7.2 European Convention on Human Rights

Article 8 of the European convention on Human Rights states:

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

8.0 Outcome of the exercise

At the end of the exercise, any case which has been found to have been fraudulent will be dealt with in accordance with the policies contained within Councils Benefit Fraud Security Strategy

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