



**Falkirk Council**  
*Finance Services*

**Revenues Service**

**Benefits Section**

**Anti-Fraud and Prosecution Policy**

## **1. Introduction**

- 1.1 Falkirk Council is committed to prevent the abuse of public funds whilst ensuring that the correct benefit is paid to those who are entitled to it.
- 1.2 Falkirk Council fully supports the development of an anti-fraud culture among its employees and the public. The Council will seek to ensure that both Benefit fraud is prevented wherever possible and where detected, it will be thoroughly investigated, overpayments recovered, and consideration given to offering an Administrative Caution or an Administrative Penalty or passing the case to the Procurator Fiscal for possible prosecution.

## **2. Security of Administration**

Falkirk Council will ensure the security of Benefits Administration by:-

### **2.1. Verification Framework**

- 2.1.1 Continuing to comply with the minimum standards for the collection of evidence and ongoing checks in HB/CTB claims laid down in the Verification Framework to reduce the amount of fraud and error entering the system, and detect any that does enter more readily. This was implemented in October 2000.
- 2.1.2. Training all new staff responsible for receiving and verifying documents on the evidence requirements and cross-checks and ensuring they apply this to comply with the relevant legislation.
- 2.1.3. Monitoring this through regular management checks and providing individual feedback to staff.
- 2.1.4. Regular refresher training will take place when required.

### **2.2. Fraud Investigation Team – Staffing & Systems**

- 2.2.1. Ensuring that the appropriate level of resources are employed within a team of specialised staff dedicated to the investigation of fraud who liaise with Benefits administration and Rent and Council tax collection staff, Housing Services, Counter Fraud Investigation Service (CIFIS) and other government departments.
- 2.2.2. Embracing new information technology and seeking ongoing enhancement / upgrades to systems and computer hardware to support best practice and new initiatives to prevent and detect Benefits fraud.

### **2.3. Performance Standards**

- 2.3.1. Striving to achieve the Performance indicators and enablers in the “Security” Performance Standards from April 2005. The Head of Revenues / Benefits Manager will carry out annual self-assessments to review performance in this area, set and monitor targets for the dedicated fraud team and submit the findings annually to DWP.

## **2.4. Interventions**

- 2.4.1. Striving to achieve the Intervention Targets set by DWP for case reviews and intervention visits to ensure there is no loss of administration subsidy to the Authority. The Head of Revenues / Benefits Manager will set and monitor targets for the Benefits Administration and Visiting staff.

## **2.5. Weekly Incentive Benefits (WIBs)**

- 2.5.1. Striving to maximise the additional subsidy that the Authority can gain under the Weekly Incentive Benefit Scheme. The Head of Revenues / Benefits Manager will set and monitor targets for the Benefits Administration staff and the dedicated fraud team.

## **2.6. Friends and Relatives**

- 2.6.1. Making sure that all staff involved in the administration of benefits have been informed in writing of the procedures to be followed in relation to claims from themselves, relatives or friends and have signed an acknowledgement, that they have read and understood these instructions. These acknowledgements will be monitored by the Head of Revenues / Benefits Manager.

## **2.7. Land Registry**

- 2.7.1. Continuing to provide access to the Land Registry Service which enables officers to carry out a check on ownership of properties to validate landlords of private sector claimants.

## **2.8. Remote Access Terminal**

- 2.8.1. Continuing to provide access to specially trained staff to two Remote Access Terminals. This enables checks to be made on other Social Security Benefits including Income Support, Job Seeker Allowance (income based),

## **2.9. Royal Mail “Do Not Redirect Scheme”**

- 2.9.1. Continuing to participate in the Royal Mail “Do Not Redirect Scheme”. This is an anti-fraud measure introduced by DWP that ensures Housing Benefit cheques do not continue to be sent to claimants who have moved house or who claim for empty properties.

## **2.10. Internal Data Matching**

- 2.10.1. Actively participating in regular internal data-matching exercises against Payroll and Pension records and licensing records in accordance with the Falkirk Council Code of Practice and the Data Protection Act 1998.

## **2.11. Internal Audit**

- 2.11.1 Committing Internal Audit resources to review Benefits administration and focus those resources on areas of particular risk

## **2.12. Reporting**

- 2.12.1. The Director of Finance will report quarterly on the Security Performance Indicators to the Best Value and Audit Forum.

## **3. Increasing Fraud Awareness**

Falkirk Council will increase fraud awareness by: -

### **3.1. Fraud Hot-Line**

- 3.1.1 Providing and staffing a local Benefits Fraud Hot-Line during working hours, and an answer phone service outwith working hours, for the public or employees to report suspicions.
- 3.1.2 Publicising the Benefits Fraud Hot-Line at all Area Offices, in appropriate Benefits documentation issued to the customer, in newspaper and radio adverts and by any other appropriate means.

### **3.2. Referral via Internet / Intranet**

- 3.2.1. Providing an on-line facility on the Falkirk Council web site for use by the public to report suspicions.
- 3.2.2. Providing an on-line facility on the Falkirk Council Intranet site for use by council employees to report suspicions
- 3.2.3 Publicising the on-line referral facility in appropriate Benefits documentation issued to the customer and by any other appropriate means.

### **3.3. Information & Publicity**

- 3.3.1. Providing new staff into the Revenues Service with a copy of the Anti Fraud and Prosecution Policy within 2 weeks of their appointment and receiving a signed acknowledgement confirming they have read and understood the document.
- 3.3.2. Publishing the Anti Fraud and Prosecution Policy on the Falkirk Council Intranet to increase the awareness of all Council employees.

### **3.4. Fraud Awareness Training**

- 3.4.1 Providing fraud awareness training to new staff involved in Benefits Administration as part of their Training and Development Plan.
- 3.4.2. Providing regular refresher fraud awareness training to all staff involved in Benefits Administration at least annually.

## **4. Joint Working**

Falkirk Council will actively participate in joint working arrangements with other local authorities, Job Centre Plus, Counter Fraud Investigation Service (CIFIS), The Pension Service, the Fraud Proceedings Unit, the Operational Intelligence Unit (OIU) and Inland Revenue to share information and prevent and detect fraudulent claims by: -

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## **4.1. National Fraud Partnership Agreement with CIFIS**

- 4.1.1. Signing and adhering to the terms of the National Fraud Partnership Agreement with CFIS at Regional Board level. The Head of Revenues / Benefits Manager will sign the Agreement on behalf of Falkirk Council.
- 4.1.2. Agreeing, monitoring and reviewing locally agreed service standards with the CIFIS Sector which meets at least the minimum standards laid down in the Partnership Agreement. The Benefits and local CIFIS Manager will meet quarterly to monitor and review this and to identify and undertake joint initiatives.
- 4.1.3. Undertaking joint investigation and sanction action, where appropriate, with CIFIS in cases where Housing and / or Council Tax Benefit and Income Support / Job Seeker's Allowance (Income based) is also in payment. The Benefits Manager will authorise any joint sanctions work.
- 4.1.4. Attending quarterly meetings of the East of Scotland Joint Operational Board which all joint partners attend at a regional level and which reviews the operation of the National Fraud Partnership Agreement.
- 4.1.5. Publishing a copy of the National Fraud Partnership Agreement on the Revenues (Benefits) Intranet web page to ensure that staff involved in fraud investigation and benefits administration are aware of the requirements and their responsibilities.

## **4.2. The Pension Service**

- 4.2.1. Referring cases of suspected fraud where Pension Credit is in payment to The Pension Service for investigation under the terms of the National Partnership Agreement with The Pension Service.

## **4.3. The Operational Intelligence Unit**

- 4.3.1. Appointing an Authorised Officer (A.O.) seconded to the DWP Operational Intelligence Unit as a representative of Falkirk Council to exercise the appropriate powers under s.110A of the Social Security Administration Act 1992. (A schedule outlining the powers that will be exercised under s.110A is attached at the back of this Policy document.) The Director of Finance appointed an Authorised Officer on 31 January 2005.
- 4.3.2. The A.O. will report to the Benefits Manager who will put management checks in place to ensure that only lawful requests are made by fraud investigation staff and that only staff involved in the investigation have access to the results of the searches.

## **4.4. The Inland Revenue**

- 4.4.1. Putting into place management checks to ensure that only lawful requests are sent to DWP for Inland Revenue information.

#### **4.5. Housing Benefit Matching Service**

- 4.5.1. Actively participating in the national Housing Benefit Matching Service (HBMS) which facilitates the cross-matching of data between Falkirk Council, other Authorities and government departments to prevent and detect fraudulent claims.
- 4.5.2. Complying with the data integrity requirements ensuring the accuracy of the customer's National Insurance number recorded on the Civica Benefit system to meet the Performance Indicator of 98% to match with DWP records
- 4.5.3 By providing HBMS with data monthly on the date specified.

#### **4.6. National Fraud Initiative**

- 4.6.1. Actively participating bi-annually in the National Fraud Initiative, under the auspices of Audit Scotland, which facilitates the cross-matching of Falkirk Council benefit, payroll and pensions data with national Pensions and Student Loans databases to prevent and detect fraudulent claims.

### **5. Fraud Referrals**

Falkirk Council will:-

- 5.1. Provide all staff involved in Benefits Administration with clear written guidance on when cases should be referred to designated fraud staff for investigation
- 5.2. Sift fraud referrals within 10 working days of receipt (except bulk referrals from HBMS or NFI).
- 5.3. Develop a risk scoring system for referrals and give priority to high and medium risk cases, regularly reviewing and amending the scoring system to reflect the results of the investigations.
- 5.4. Open a fraud investigation within 10 working days of the referral being accepted and, if it is a referral from staff involved in Benefits administration, send an acknowledgement to the originator advising them of the action that will be taken.
- 5.5. Use a pro-active Fraud Case Management System to record, cross-check, monitor and report on all fraud referrals and their progress / outcomes.
- 5.6. Provide all staff involved in Benefits Administration with regular reports analysing the outcomes of fraud referrals and identifying trends.

### **6. Fraud Investigations**

Falkirk Council will ensure that fraud investigations are only undertaken by trained, designated fraud staff ensuring compliance with statute (including the Benefit Regulations, Data Protection and Human Rights Act) and best practice by:-

## **6.1. Working Practices and Procedures**

- 6.1.1. Maintaining a written procedural manual to clearly define arrangements for investigating fraud to support this policy document and regularly reviewing and updating the manual.
- 6.1.2. Carrying out regular management checks to ensure that cases of suspected fraud are investigated in accordance with the written guidance and best practice, identifying training issues and providing staff with individual feedback.
- 6.1.3. Asking Fraud Investigators to keep a full and accurate record of what they do for their own personal use so that it can be used as an aide memoir when giving evidence.
- 6.1.4. Keeping separate fraud files for all investigations with restricted access.
- 6.1.5. Conducting interviews under caution in accordance with the test of fairness where there are reasonable grounds based on known facts or information, which are relevant to the offence.

## **6.2. Code of Conduct**

- 6.2.1. Developing and implementing a Code of Conduct for staff involved in fraud investigation to support this policy document and receiving a signed acknowledgement confirming they have read and understood the document.

## **6.3. Surveillance**

- 6.3.1. Empowering Fraud Investigators to carry out surveillance as a “last resort” in a fraud investigation where appropriate.
- 6.3.2. Ensuring that any requests to carry out surveillance as part of a fraud investigation are “justifiable” and properly authorised by the Head of Revenues / Benefits Manager.
- 6.3.3. Ensuring that staff carrying out surveillance receive appropriate training and are given a copy of the Falkirk Council Covert Surveillance policy which outlines the procedures to be followed to ensure compliance with the Regulation of Investigatory Powers (Scotland) Act 2000, and sign an acknowledgement to confirm they have read and understood the document.

## **6.4. Training**

- 6.4.1. Ensuring that fraud investigation staff receive funding to attend the Professionalism in Security (PINS) training (or other appropriate training courses) and gain the ACFO accreditation to attain the ability to undertake investigations to the highest standards
- 6.4.2. Ensuring that the fraud team managers receive funding to attend the Professionalism in Security (PINS) training (or other appropriate training courses) and gain the ACFM accreditation to attain the ability to undertake and manage investigations to the highest standards
- 6.4.3. Providing regular refresher training to enable dedicated fraud staff to retain and improve on the skills they have gained.
- 6.4.4. All training will be delivered and documented on the central Revenues Training database.

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## **7. Recovery of Benefit Overpayments**

Falkirk Council will take appropriate action to recover fraudulent Housing and Council Tax Benefit overpayments wherever possible from those responsible.

## **8. Sanctions and Prosecution Policy**

8.1. Where a fraud investigation has been conducted and suitable evidence gathered to instigate proceedings, Falkirk Council will adopt the following Sanctions and Prosecution policy which is in line with the recent judicial review of the DWP's current policy:

8.1.1. The Senior Fraud Officer will identify that the case may be suitable for prosecution and seek authorisation for sanctions action from the Director of Finance or his nominee. In the normal course of events that decision will rest with the Head of Revenues or Benefits Manager.

8.1.2. In reaching a decision on whether a case is suitable for prosecution, consideration will be given to:-

- the total value of the fraudulent overpayment
- the period of the fraudulent claim
- whether the customer has previously committed fraud
- whether the person has refused to accept the offer of an Administrative Caution or Administrative Penalty
- the quality of evidence to support that there has been criminal intent to commit fraud
- the age of the claimant
- the mental / physical health of the claimant

8.1.3. The Senior Fraud Officer will ensure that an Interview under Caution has been carried out.

### **8.1.4. Total Overpayment below £2000**

- If the customer:
  - Admits the offence – and it is a first time offence, consideration will be given to issuing an Administrative Caution or an Administrative Penalty, unless the value of the o/p is less than £50 when a penalty cannot be applied.
  - Does not admit the offence – and it is a first time offence, an Administrative Penalty will be offered, unless the value of the o/p is less than £50 when a penalty cannot be applied.
- If the customer refuses to accept the caution or the offer of an Administrative Penalty, the case will be considered for prosecution.
- A 30% Administrative Penalty will be offered as detailed in Section 15 of the Social Security Administration (Fraud) Act 1997.

#### 8.1.5. Total Overpayment £2000 or more

- If the customer:
  - Admits the offence – and it is a first time offence, consideration will be given to issuing an Administrative Caution, or the case will be considered for prosecution.
  - Does not admit the offence – and it is a first time offence, the case will be considered for prosecution.

#### 8.1.6. Repeat Offenders

- If the customer has previously committed fraudulent activity, and the overpayment is £500 or more, the case will be considered for prosecution

### **8.2. Fraud Proceedings Unit**

- 8.2.1. Any benefit claim which is identified as suitable for prosecution, where there is no Income Support or Job Seeker's Allowance (income-based) in payment, will be referred with the supporting evidence to the DWP Fraud Proceedings Unit who will review the investigation and decide if the case should be placed before the Procurator Fiscal (P.F.).
- 8.2.2. If the case is considered suitable, the Fraud Proceedings Unit will prepare a submission on behalf of the Authority and place the case before the P.F.

### **8.3. Joint Prosecutions with CIFIS**

- 8.3.1. Joint prosecutions will be carried out with CIFIS, if considered suitable, where Housing and / or Council Tax Benefit and Income Support or Job Seekers Allowance (income based) is in payment. The Benefits Manager will authorise this action.

### **8.4. Performance Targets**

- 8.4.1. Targets for sanctions will be set for 2005/06 and subsequent years and will be split between administrative cautions, administrative penalties and prosecutions. Performance against targets set will be reported by the Director of Finance to the Best Value and Audit Forum.

### **8.5. Publicity**

- 8.5.1. If a case is successfully prosecuted, the Authorities Publicity section will be contacted and a press statement released. If it has been a joint prosecution with CIFIS, any press statement will be provided to them in draft for approval before being released. It is hoped that any resultant publicity will act as a deterrent to potential fraudulent claimants.

## **9. Staff Health & Safety**

- 9.1. Falkirk Council has put the following measures in place to protect Visiting and Fraud staff from threats of violence:
- 9.2. A potentially violent database has been compiled and is regularly updated and made available to all staff involved in Benefits Administration. Sources of referrals include Housing and Social Work Services and Job Centre Plus.
- 9.3. Staff carrying out house visits are provided with mobile phones to ensure they can contact the office at any time.
- 9.4. Staff are provided with personal alarms and dog dazers.
- 9.5. Staff carrying out visits leave a daily log of names and addresses of all planned visits in order that the visits will be undertaken. They call in after each visit has been completed and office based staff remain in contact with Visiting staff and monitor contact throughout the day.
- 9.6. There is an agreed emergency code to be used by staff if a threat arises.

## **10. Review**

- 10.1. This policy will be reviewed and amended by the Director of Finance on an annual basis to take account of any legislative changes and procedural improvements. Where there are material changes the amended policy will be referred to the Policy & Resources Committee. Otherwise, Members will be informed of any changes through the Information Bulletin.

**Approved by Falkirk Council Policy & Resources on 8<sup>th</sup> March 2005**

## Section 110A of the Social Security Administration Act 1992

This section of the Fraud Act gives Local Authorities who administer Housing and Council Tax Benefit the power to **appoint Authorised Officers (A.O.) to seek information from third parties** to:

- Ensure that benefit is correctly payable
- Ascertain if the provisions of the Regs have been contravened
- Prevent, detect and secure evidence of fraud.

The Authorised Officer must be appointed by the Director of Finance / Head of Paid Services and must be employed by the L.A. administering HB/CTB, or another L.A. who administers functions relating to HB/CTB on behalf of the L.A., or an official of a government dept.

The person being put forward for authorisation must also have successfully completed an Authorised Officers training course run by, and approved by, DWP.

Information can be sought from a variety of persons / institutions if the A.O. has **reasonable grounds** for suspecting that a specified person may have possession of, or access to, information in relation to the above. A **written notice must be served** requesting the information.

Sources include:

- |                                      |  |
|--------------------------------------|--|
| * Employers, former employers        | * Water, electricity and utility companies           |
| * Self- employed earners             | * Banks, building society and financial institutions |
| * Employees, former employees        | * Telecommunication companies                        |
| * Workers about colleagues           | * Any credit reference agency                        |
| * Charities about employees          | * Student Loans company                              |
| * Local Authorities about licenses   | * Any educational establishment                      |
| * Contractors / agencies about staff | * Insurance companies                                |

The information being requested will be limited to the verification of income, capital, household circumstances, residency at an address or form part of a fraud investigation.

The Authorised Officer also has the power to enter the premises of the above to gather the information needed.