

Housing Benefit and Council Tax Benefit – Anti-fraud Strategy and Sanctions Policy

Anti-fraud Strategy

1. Statement of Intent

- 1.1 Haringey Council is responsible for administering public funds. The Benefits and Local Taxation Service has a key role in ensuring that the right benefits go to the right people in accordance with their entitlement.
- 1.2 The Council will ensure that effective policies and procedures are in place to prevent and detect benefit fraud either by employees or claimants. The Council will use the criminal and civil powers available to it to take action against those who have committed benefit fraud.
- 1.3 Prosecutions may be undertaken by the Council through its own Legal Service or in partnership with the Department for Works and Pensions Solicitors Office, or the Crown Prosecution Service.

2. Measures we have in place to tackle benefit fraud

- a) We employ a dedicated team to investigate suspected benefit fraud
- b) We have a published Sanctions Policy
- c) We inform our customers of their responsibility to tell us about any changes in their circumstances and the documents that they must provide
- d) We have published email and telephone contact details which anyone can use to refer cases of suspected benefit fraud to us
- e) We participate in the National Fraud Initiative data matching exercise
- f) Staff involved in benefits administration and fraud investigation attend regular fraud awareness training
- g) We work with other organisations including other Local Authorities, the Police, UK Border Agency and the Department for Work and Pensions on joint investigations
- h) We publicise successful prosecutions in the local media

3. Who is affected by this strategy?

- 3.1 This strategy will be applied to anyone who applies for Housing Benefit and Council Tax Benefit, or anyone who assists a person make a claim for benefit, which they know is false or dishonest.
- 3.2 It will also apply to any person who receives Housing Benefit and Council Tax Benefit, either as a claimant, or a partner of the claimant, appointed representative, landlord or managing agent or employee of the Council.

4. Deterring Benefit Fraud

- 4.1 The Council recognises that the most people who claim Housing and Council Tax Benefit are honest and keep within the rules of the system. However, the Council also recognises that no system is foolproof and will periodically request anyone in receipt of benefit to confirm their details. It

will also participate in regular data-matching exercises with other organisations.

4.2 Any person found committing benefit fraud will be subject to the Council's Sanctions Policy. The Council will also make use of the full range of available opportunities to publicise the details of anyone found guilty of serious benefit fraud. In this way the Council will seek to increase fraud awareness amongst the community and the consequences of acting dishonestly.

5. Data Protection Act and other relevant legislation

5.1 Those responsible for investigating benefit fraud will be required to comply at all times with the relevant legislation relating to the investigation of criminal offences.

5.2 The Council is registered under the Data Protection Act 1998 for the purposes of preventing and detecting crime, the prosecution of offenders and the collection of any tax. The investigators will use appropriate data disclosure forms to ensure that investigations comply with the legislation and individuals' data is used appropriately.

5.3 The Council requires its investigators to work within the guidelines of the following legislation at all times:

- a) The Police and Criminal Evidence Act (PACE) 1984
- b) Regulation of Investigatory Powers Act 2000
- c) Criminal Procedures and Investigations Act 1996
- d) The Human Rights Act 2000
- e) The Social Security Administration and Fraud Acts 1992 - 2008

6. Referral of Benefit Fraud

6.1 The Council wants to encourage anyone who suspects benefit fraud to report their suspicions, either openly or anonymously, to the Benefits Fraud Investigation Team. The details of how to report fraud are also on the Council's website and are:

- In writing to: Benefits Fraud Investigation Team, PO Box 22727, Wood Green, London, N22 7WS;
- By telephone (voicemail facility, 24 hours/7 days a week) on [Freephone 0500 500 777](tel:0500500777)
- By contacting the Benefit Fraud Team directly (9.00am – 5.00pm, Monday – Friday)
- By email to: fraudcall@Haringey.gov.uk

6.2 The Benefit Fraud Investigation Team will investigate those cases where there is a reasonable suspicion, based on the available evidence, that fraud is taking place.

6.3 Investigations undertaken by the Benefit Fraud Investigation Team are confidential. Officers are unable to engage with third parties in discussion about the conduct and nature of their investigations.

Sanctions Policy

This policy is intended to provide clear guidance on what sanctions are available to the Council against anyone who commits benefit fraud and when the use of a sanction is suitable. The guidelines apply equally to members of the public, Council staff, and members of the Council.

The Benefit Fraud Investigation Team review each fraud case and any mitigating circumstances are taken into account on a case by case basis.

Sanctions Available to the Council

The Council has the power to impose three forms of sanction on claimants who have committed benefit offences:

1. Prosecutions
2. Civil Cautions
3. Administrative Penalties

Prosecutions

Prosecutions will be reserved for those cases which, in the opinion of the Council, are the most serious. Prior to any decision to prosecute being made, the Investigator will apply the 'Evidential Test' and then the 'Public Interest Test', as set out in the *Code for Crown Prosecutors*.

Evidential Test

Whilst not an exhaustive list, the investigator should consider the following:

- Is the evidence of sufficient quality and reliability to support a prosecution?
- Is the reliability of the evidence affected by such factors as the defendant's age, mental capacity, or understanding?
- What explanation has the defendant given? Is the court likely to find it credible in light of the evidence as a whole?
- If the identity of the defendant is likely to be questioned, is the evidence about this strong enough?
- Is the reliability of the evidence likely to be compromised by the accuracy or credibility of a witness?

Public Interest Test

If the Evidential Test has been met, the Council should then consider whether or not a prosecution would be in the public interest as defined by the *Code for Crown Prosecutors*. The facts in each case will determine if this test is satisfied. The following list is not exhaustive, but a review may include the following:

- Whether the defendant was a ring leader, or an organiser, of the offence;
- Whether there has been any abuse of position or privilege;
- Whether there are grounds for believing that an offence is likely to be continued or repeated, based on the person's previous history;
- Whether the offence, although not serious in itself, is widespread in the area where it was committed and so prosecution may act as a deterrent.

When considering a case for prosecution, in addition to the Evidential and Public Interest Tests outlined above, the investigator should also take the following into consideration:

- Whether there was a degree of planning in the process that was more than minimal;
- Whether a false, counterfeit or forged instrument was used in the commission of the offence;
- Whether offences have been committed against more than one agency, authority or government department;
- Whether the defendant has a previous history of benefit fraud;
- The duration of the alleged offence;
- Whether the person has refused to accept a Formal Caution or Administrative Penalty.

Civil Cautions

A Caution is a formal written warning that can be administered as an alternative to prosecution. Details of the Caution are retained for a period of five years and may be included if any further benefit fraud offences occur.

The Council may consider issuing a Simple Caution if:

- The claimant has been Interviewed Under Caution (IUC);
- To our knowledge, the claimant has never previously offended;
- There was little or no planning involved in the process of committing the offence;
- The person has fully admitted the offence during an IUC;
- The person expresses genuine remorse for what they have done.

If the person refuses the Caution, the case will usually be referred for prosecution.

Administrative Penalties

Section 115 of the Social Security Administration Act 1992, as amended by Section 15 of the Social Security (Fraud) Act 1997, allows the Council to apply an Administrative Penalty as an alternative to prosecution. The penalty is fixed to 30% of the total qualifying overpayment.

The Council may consider issuing an Administrative Penalty if:

- The claimant has been Interviewed Under Caution;
- To our knowledge the claimant has never previously offended;
- There was little or no planning involved in the process of committing the offence.

If the person refuses the Administrative Penalty, the case will usually be referred for prosecution.

The Decision to Administer a Sanction.

It is for the Investigating Officer to identify potential sanction cases and recommend which sanction should be imposed. Once the relevant evidence has been obtained, the Fraud Investigation Officer's Line Manager will make a final decision on what sanction to impose, or whether to proceed. The case can then be passed to the relevant prosecuting authority for legal action to be commenced.

Publicity

The Fraud Investigation Team aims to publicise cases where successful prosecutions have taken place. The final decision to publicise will rest with the Council's Communications and Consultation Unit.

Recovery of Overpayments

Regardless of whether or not any sanction action is taken, the Council will try to recover all overpayments. This action is taken by the Enforcement Team who will pursue all available methods of recovering the debt.

Proceeds of Crime

The Proceeds of Crime Act 2002 (POCA) was put in place to demonstrate that crime does not pay. In addition to the recovery of monies obtained directly through criminal activity – i.e. the overpaid benefit – the use of POCA ensures that the full scope of any criminal activity that the fraudulent claimant is involved with is identified, restrained and confiscated as appropriate.

The Council refers all suitable cases for financial investigation. These investigations are carried out in conjunction with accredited Financial Investigators from the Department of Work and Pensions, Serious and Organised Crime Agency, or the Metropolitan Police Service.