
Meeting: Audit Committee
Date: 31 March 2014
Subject: Housing Benefit & Council Tax Support Fraud
Report of: Charles Warboys, Chief Finance Officer
Summary: This report provides the Committee with an update on the work of the Benefit Fraud Investigation Team.

Advising Officer: Charles Warboys, Chief Finance Officer
Contact Officer: Gary Muskett, Head of Revenues & Benefits
Public/Exempt: Public
Wards Affected: All
Function of: Not applicable

CORPORATE IMPLICATIONS

Council Priorities:

Financial:

1. The costs of the Benefits Fraud Investigation Team (BFIT) are met from the DWP Administration Grant (currently £2,280,000) and this is likely to reduce as Universal Credit claims increase, Housing Benefit is phased out and the Council Tax Benefit scheme is withdrawn. At some point in the future a further decision may be taken which might include the permanent transfer of LA fraud staff to the Single Fraud Investigation Service (SFIS) within the DWP and this may bring more reductions in grant payments.

Legal:

2. No implications arising from this report

Risk Management:

3. There is a risk that current levels of staffing will not be able to be maintained due to the funding reductions referred to above, and there is a risk that without sufficient resources being available to detect and investigate suspected fraud, the Council will not have assurance that it is fully meeting its statutory responsibility to protect the public purse.

Staffing (including Trades Unions):

4. No implications arising from this report

Equalities/Human Rights:

5. No implications arising from this report

Public Health:

6. No implications arising from this report

Community Safety:

7. No implications arising from this report

Sustainability:

8. No implications arising from this report

Procurement:

9. No implications arising from this report

RECOMMENDATIONS:**The Committee is asked to:**

1. **Consider and comment on the implications of the issues raised in this report for both the Council and individual claimants.**
2. **Affirm their support for the counter fraud work being conducted by the Benefit Fraud Investigations Team.**

Background

10. The current Benefit Fraud Investigations Team (BFIT) was established in 2009 with the inception of Central Bedfordshire Council and is the combination of the previous two legacy District Council BFIT's. The team of 6 full time staff is a dedicated unit within the Revenues and Benefits service, established to investigate, sanction and prosecute benefit fraud. The Team's most valuable asset is its staff with in excess of 120 years criminal investigative experience existing within the team. All staff on the team are fully trained Counter Fraud Officers, holding their Professionalism in Security accreditation from Portsmouth University. Investigators have attended Advanced Investigative Interviewing training to build on and improve their current skills.
11. As criminal investigation experts they operate within a strictly regulated framework to the highest standards of performance and integrity, adhering to a range of complex legislation and operating in accordance with the relevant codes of practice.
12. Through the successful prosecution of fraud cases, the Council has assurance that fraud is being investigated correctly, that evidence gathered is admissible and has been fairly obtained ensuring any legal proceedings are not adversely affected or the Council's reputation damaged in any way.
13. In the last 5 years BFIT have received nearly 2,000 allegations of benefit fraud, have conducted 1,600 criminal investigations, successfully secured 105 prosecutions for benefit fraud and sanctioned a further 178 benefit fraudsters.

14. Each case of fraud is reviewed on its own merits before a decision is made if it is suitable for a prosecution. We will always seek to prosecute where we believe there are aggravating factors about a case, which make prosecution appropriate.
15. We will always seek to prosecute if a claimant has already been prosecuted, received a Simple Caution or Administrative Penalty for similar offences or the offer to accept an Administrative Penalty or Simple Caution has been declined.
16. We must however, upon deciding whether to take prosecution action, also consider all the circumstances surrounding the case, with particular emphasis on the following;
 - Whether there is sufficient evidence for a realistic prospect of a conviction
 - Any failure in the investigation or benefit administration, including delay
 - Whether a prosecution is in the public interest.
17. Public interest factors which are considered include the amount of the overpayment and the duration of the offence, any abuse of position or privilege, any previous incidence of fraud, whether there are grounds for believing that the offence is likely to be continued or repeated, based on any history of recurring conduct or whether the claimant is elderly or suffering from significant mental or physical ill health. We do not prosecute where we believe a genuine error has been made by the claimant.
18. In addition to prosecuting claimants in the Courts the BFIT also has the option to issue a Simple Caution or Administrative Penalty, details of which are explained below

Simple Cautions

19. A Simple Caution is an administrative sanction that the Council is able to offer as an alternative to prosecution, provided that specific criteria are met, as detailed below and the case is one where the Council has sufficient evidence to take prosecution action if the caution was refused.
20. Simple Cautions are usually aimed at the less serious benefit frauds and those where the overpayment is below economic viability for prosecution. This viability is set at overpayments of less than £2,000 as per the DWP guidance. It can be used where the deterrent effect is considered a sufficient and suitable alternative to prosecution or an Administrative Penalty.
21. The customer must make a clear and reliable admission of the offence verbally or in writing and there must be a realistic prospect of conviction if the customer were to be prosecuted. If the customer is subsequently prosecuted for another benefit offence the caution may be cited in court.

Administrative Penalties

22. An Administrative Penalty is the offer to the customer to agree to pay a financial penalty where the customer has caused benefit to be overpaid to them, by either a deliberate act or omission. The amount of the penalty is stipulated at 30% of the amount of the overpayment.
23. An Administrative Penalty is offered where the case is deemed to be not so serious and the offer of it is considered a suitable alternative to prosecution and the overpayment is below economic viability for prosecution. This viability is set at overpayments of less than £2,000 as per the DWP guidance. Unlike Simple Cautions no admission of guilt is required from the customer before offering an Administrative Penalty, although there must be grounds for instituting criminal proceedings for an offence relating to the overpayment, should the Administrative Penalty be refused.

Central Bedfordshire Council Fraud Policies

24. On 28 September 2010 the Council's Executive approved the Central Bedfordshire Council Housing and Council Tax Benefit Anti Fraud Strategy and Policy and the Housing and Council Tax Benefit and Sanctions Policy. These Policies are attached at Appendices C and D for information.

Performance Information

25. BFIT's work comes from a variety of sources including referrals from the Council's Revenues and Benefit service, other internal departments, the Benefit Fraud Hotline available to the public, anonymous allegations, data matching initiatives and a programme of proactive work as well as referrals from external agencies.
26. The Council is a member of the Housing Benefit Matching Service (HBMS), which cross checks our benefit claims against data held by other government agencies. Its aim is to show duplicate claims and any source of undeclared income. The Council is also a member of the National Fraud Initiative (NFI) administered by the Audit Commission, which allows comparison of housing benefit data against many other data sources such as pensions and payroll data.
27. Analysis shows that the largest number of referrals comes from data matching and referrals from our own Revenues and Benefits staff during the course of their duties. Most referrals concern allegations of undeclared earnings/income.

28. During 2012-13 the team investigated 345 cases and 76 individuals have been prosecuted or sanctioned as a result of benefit fraud, see Appendix A:
- 35 individuals prosecuted for benefit fraud
 - 7 individuals received local authority cautions
 - 34 individuals received an administrative penalty (which represents a fine).

During 2013-14 the team have investigated 230 cases and 33 individuals have been prosecuted or sanctioned as a result of benefit fraud, see Appendix B:

- 27 individuals prosecuted for benefit fraud
 - 1 individuals received local authority cautions
 - 5 individuals received an administrative penalty.
29. The number of prosecutions, sanctions and administrative penalties may appear relatively low compared to the number of fraud referrals received by the team, however each case will only progress to some form of sanction if we are satisfied that after thorough investigation the Council has a water tight case to prove fraud has been committed.
30. During the investigations, which are becoming progressively more complex, we may find that there is insufficient evidence to prove the fraud or the right standard of evidence. It does also become apparent during some investigations that the suspected fraud is actually borderline error, in that the claimant has made an error on their benefit application. This can be due to learning difficulties or a genuine misunderstanding for example. Alternatively fraud maybe proven but it may not be in the public interest to pursue the matter.
31. The number of referrals has reduced between 2012-13 and 2013-14 due to administrative difficulties at the DWP Housing Benefit Matching Service. There has also been a reduction in the number of claimants sanctioned due to the more complex nature of the frauds being perpetrated, particularly regarding fictitious tenancies, which are very time consuming to investigate. We are also investigating an increasing number of Council Tax frauds relating to falsely claimed discounts.
32. Sentences and penalties have varied but in summary over the last financial year punishments have included: 1 individual being sent to prison for benefit fraud (2 individuals have been sent to prison so far this financial year); 5 receiving suspended sentences narrowly avoiding imprisonment; 8 receiving Curfew Orders severely restricting their movements; and 12 individuals having to do over 1900 hours of work in the community, serving the people of Central Bedfordshire for their benefit offences, as well as the imposition of various fines. The Council was awarded costs on 32 of the 35 cases prosecuted for Benefit fraud.
33. During 2012-13 the Team have identified £491,000 of Housing Benefit/Council Tax Benefit being incorrectly claimed. The DWP will pay an additional 40% subsidy payment on over paid Housing Benefit which would amount to £196,000 at the 2012-13 figure in addition to the original over paid amount; so if successfully collected the Council have an opportunity of additional revenue.

34. This financial year the team have started to investigate Council Tax Fraud and Housing Fraud. An example of Council Tax fraud is where a Single Person Discount (SPD) is claimed and the claimant has a partner or an owner states falsely that they have a tenant to avoid payment. The SPD frauds can amount to over £400 each p.a.
35. Prosecutions have already been secured and a short case study of Housing Fraud can be found at point 48 below.
36. In summary, the Team continue to provide a cost effective benefit fraud service to the Council which continues to ensure the Council has a robust approach to the identification and prosecution of benefit fraud offenders.

Single Fraud Investigations Service (SFIS)

37. DWP arrangements are on-going for the planned implementation of SFIS. This will see the investigative capability of the DWP, BFIT and Her Majesty's Revenue and Customs (HMRC) being brought together into one organisation responsible for investigating all social security benefit fraud. There is a recommendation that SFIS is led by the DWP and will be implemented during 2014 – 16.
38. SFIS will provide a single service investigating and prosecuting the totality of the benefit offence and this will be done under one set of policies and procedures bringing together staff from DWP, LA s and HMRC. It is proposed that at some point LA BFIT staff will become SFIS employees and are likely to be transferred to the DWP but no time frame for these changes is yet known.
39. Pilots are currently underway to test ways of working and between now and March 2015 SFIS design, including IT solutions will be rolled out across all Local Authorities, DWP and HMRC who have not, up until then been part of the Pilot / pathfinder activity.
40. The DWP announced an implementation timeline for the delivery of SFIS on 3 March 2014, the details of which are as follows:
 - Phase 1 - Implementation to commence with a small number of sites in summer 2014
 - A break to evaluate and learn lessons from the transfer process prior to full national implementation.
 - Phase 2 - Implementation to re-commence in October 2014 and run for a further 18 months to March 2016. Detailed conversations with these sites are due to commence in May 2014.
41. To support the main phase of implementation from October 2014 to March 2016, each LA will be allocated to a month in the national implementation schedule. The DWP will issue a copy of the schedule shortly.
42. The potential transfer of staff to the DWP SFIS, could result in the loss of the specialist BFIT resource and the criminal investigative skills and specialist training from the Council.

43. It is also anticipated that the grant funding received by the Council for this work will cease following the transfer of the function to SFIS.

Case Studies

44. Below are examples of some of the recent cases that the Team have investigated and prosecuted. Every effort will always be made to maximise the recovery of any losses to Central Bedfordshire Council by:-

- Asking for realistic court costs
- Instituting recovery proceeding under Proceeds of Crime legislation where the defendant has realisable assets (i.e. property, capital) and is in a position to settle a debt promptly.

45. **£25,147 fake tenancy fraud**

Mr R made a claim for Housing Benefit and Council Tax Benefit, declaring his landlord as a property company. Following an investigation which started due to discrepancies with the claim we established the company did not exist and the property was in fact owned by his father. We obtained bank statements from the date he moved into the property and claimed benefit (Aug 2008) and these statements showed Mr R using all of the Housing Benefit on day to day expenses and no rent being paid. Mr R pleaded guilty in court, and he has to repay £25,147.16 benefit. He was fined £850 and had to pay £350 towards prosecution costs.

46. **£18,393 fraud - failed to declare villa in Spain**

Mrs AB made a claim to Housing Benefit and Council Tax Benefit and did not declare she was the owner of any land or property here or abroad. Following an anonymous tip off we established she was the owner of a villa in Spain. Customer denied any wrong doing and following the interview under caution she provided a fake valuation which stated the property was worth less than the upper capital limit for benefit (£16,000) and she also pretended to put the villa on the market for 19,500 euro however the estate agents in Spain confirmed she declined to sell the property at this amount. We obtained our own valuation which showed the property was worth £195,000.00. Mrs AB was sentenced to 4 months in prison.

47. **£2,185 fraud – Parish Councillor failed to declare 2 private pensions and 2 periods of work**

Mr S made a claim to Housing Benefit and Council Tax Benefit and failed to declare 2 private pensions. During the period of his claim he also failed to declare two periods of employment. Customer was sentenced to a 6 month curfew and ordered to pay costs of £1,000.

48. Housing Fraud – saving to the Council in excess of £10,000

Miss M applied to Central Bedfordshire Council's Housing Department as homeless. She made two applications, a Homeless application and a Housing Register Application. Following information provided by a member of the public we established that she in fact jointly owned a property. Miss M provided two false statements by failing to declare she jointly owned a property and gave a false address history to conceal the property she owned. As she made false statements Miss M has been struck off the Housing register for two years. She was also prosecuted for making these false statements. She pleaded guilty and was fined £200 and costs of £200. The saving to the Council when a property is returned or not incorrectly allocated has been valued as in excess of £10,000 as well as this now resource being available for a vulnerable family.

49. £37,000 fraud – Undeclared partner (living together)

Miss H made a claim to Housing Benefit, Council Tax Benefit and Income Support on the basis that she was a single parent. Miss H failed to declare her partner had returned to live with her. Miss H assisted her partner running his business from her home. The overpayment of £37,000 is the total Housing Benefit, Council Tax Benefit and Income Support overpayment. Miss H was sentenced to 18 weeks in prison.

50. £4,367 Council Tax fraud

Mr O declared he had made £4,367 payments of Council Tax. When these payments could not be traced by our Recovery Team he provided a letter from his bank confirming the payments were made by a £1,910 card payment and a total of £2,456 payments made by direct debit. Following an investigation we confirmed this letter was fake and no payments had been made. Mr O was prosecuted and found guilty. The courts are waiting probation reports before sentencing him.

Appendices:

Appendix A – Sanction, Administration Penalties and Prosecution statistics 2012-13
Appendix B - Sanction, Administration Penalties and Prosecution statistics 2013-14
Appendix C - Housing and Council Tax Benefit Anti Fraud Strategy and Policy
Appendix D - Housing and Council Tax Benefit and Sanctions Policy

Background Papers:

None

Location of papers:

N/A