

NORTH LINCOLNSHIRE COUNCIL

AUDIT COMMITTEE

COUNTER FRAUD WORK

1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 To provide the Audit Committee with an appropriate level of assurance that counter fraud arrangements are adequate.

1.2 To approve an updated Benefit Fraud Prosecution Policy

2. BACKGROUND INFORMATION

- 2.1 Counter fraud work has always been an important feature in the audit plan. Resources have been identified for preventative work and a contingency for responsive work such as investigations. A separate counter fraud plan was identified for 2010/11 and this is the first of a series of regular updates to provide members with clear assurance on the adequacy of counter fraud arrangements. Appendix A shows some of the work already underway designed to prevent, detect and deter fraud.
- 2.2 Promotional work on the council's counter fraud arrangements take place throughout the year as appropriate and warning bulletins are issued of potential new or emerging risks of fraud. A counter fraud newsletter 'Fraud Focus' has been developed to raise awareness about the council's counter fraud arrangements; remind all staff how they can report suspected fraudulent activity and action that is taken to deter the reoccurrence of fraudulent activity. A copy of issue 1 is attached in appendix B and the second issue is currently being drafted. The second edition of Fraud Focus will include an article by the Investigation & Intervention Manager (Council Tax and Housing Benefits) on common areas for fraud and a reminder of the need to inform benefits of changes in circumstances.
- 2.3 The results of the first fraud awareness survey conducted have been collated. The survey provided some good baseline data on the general level of awareness to form the basis of further targeted publicity. Whilst the survey concentrated on counter fraud issues the level of awareness on other key governance policies and arrangements was also

measured. The results have been evaluated and an action plan has been developed. The survey results showed:

- A good level of awareness of the council's Anti Fraud Theft and Corruption Strategy (72%)
- High level of awareness of everyone's responsibility to report fraud (staff 98%)
- The results also showed that there is a need to raise awareness in more detailed areas and to refresh publicity materials previously issued such as leaflets and posters.

Work has already started to address the survey findings, such as:

- The launch of the first Fraud Focus newsletter
- Notice Board posters are being refreshed and information will be distributed via payslip inserts; PC screen savers; and a pocket guide summary of the Anti Fraud Theft and Corruption Strategy.

The impact of action taken to raise awareness will be evaluated through a further survey later in the year and the results will be reported to the Committee.

2.4 An important counter fraud tool is the Audit Commission's National Fraud Initiative (Data Matching) exercise which is carried on a biannual basis. Preparations are underway for the 2010-2012 exercise. Data sets are due in October 2010 articles are being drafted for Direct magazine, the website and payslips which fulfil the requirement to notify data subjects that we are about to match data. An article on NFI will feature in the next edition of Fraud Focus.

2.5 The Benefits Fraud Team continues to work proactively and has achieved successful outcomes. In 2009/10 the section received 1033 allegations of benefit fraud of which 296 (29% of the total) came directly from members of the public. The remaining allegations came from sources including council departments, electronic data matching and the DWP amongst others. The most common types of benefit fraud committed are failing to declare work, living with undeclared partners, failing to declare all income and capital and people claiming for properties where they do not live.

These allegations helped the team to identify fraudulent housing and council tax benefit overpayments of over £350,000. This figure does not include other social security fraud against the DWP that the team helped to successfully identify. Last year the council successfully prosecuted or took sanction action against 101 people.

In the first two months of the new financial year 5 cases were successfully prosecuted with a further 17 cases resulting in a formal caution or administrative penalty.

The council has been working closely with DWP on an intelligence led pro-active exercise over the last 12 months based on data matching to identify people who claim to be single but have undeclared partners

living with them. This exercise is now beginning to generate results as following extensive evidence gathering the customers are now being interviewed and the information referred to DWP decision makers to adjudicate on their benefit entitlement. The first prosecution file has been prepared for submission to the council's solicitors and it is expected that others will follow as a result of this exercise.

2.6 Changes to the Regulation of Investigatory Powers Act (RIPA) 2000 which forms part of the Anti Fraud Theft and Corruption Strategy (AFTC) were reported to cabinet on 9th June. The amendments include:

- Revised authorisation requirements
- Identification of a senior responsible officer to oversee and monitor compliance with RIPA
- Members review of the use of RIPA and responsibility for setting the policy
- Regular reporting on the use of RIPA to Members
- Authorisation by the Head of Paid Service in certain sensitive cases.

The council's Benefit Fraud Prosecution Policy, also part of the AFTC, has been reviewed and updated as follows:

- Changes in terminology and the structure of the section
- The revised Prosecution Policy amends the financial thresholds at which a prosecution or sanction would be considered in order to align it to the DWP. The threshold at which cases are considered for prosecution has been raised from £1,500 to £2,000. This recognises that benefit rates have increased over the years. Proven cases of fraud with an overpayment over £2,000 are considered for prosecution whilst those cases with overpayments below that amount are considered for a Formal Caution or Administrative Penalty. The policy still allows discretion for cases to be prosecuted below this threshold or offered a sanction for an offence over this threshold if appropriate in the circumstances of the individual case

(The revised policy is attached as appendix C).

3. OPTIONS FOR CONSIDERATION

3.1 The Committee is asked to consider whether regular reports on proactive and reactive fraud work (similar to those provided in this report) will provide sufficient assurance on the adequacy of counter fraud arrangements during 2010/2011.

3.2 The Committee may decide that a system of regular update reports will not provide sufficient assurance on the adequacy of counter fraud arrangements in place and may seek alternative arrangements.

4. OPTIONS FOR CONSIDERATION

- 4.1 Regular counter fraud update reporting complies with best practice and professional guidance available and is designed to provide this Committee with the assurance required. Members should ask sufficient questions to ensure the report provides sufficient assurance to fulfil their role as set out in the Committee's terms of reference.
- 4.2 The option set out in 3.2 represents an opportunity missed to receive an important source of assurance to assist the Committee to fulfil its role effectively.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY. IT)

- 5.1 Costs of the counter fraud publicity are met from the Internal Audit budget and have been incorporated into the 2010/2011 Audit Plan. Minor costs associated with the telephone and publicity for the Hotline will continue to be maintained within the Finance Service budget. Savings should continue to accrue as a result of improved efficiency and the avoidance of loss.
- 5.2 There are no additional staffing implications, as the internal audit section will continue to operate the Hotline from within existing resources. Training requirements identified will be met from the contingency included in the audit plan. Training of staff outside the audit team will be resourced from time set aside in the Audit plan to develop counter fraud arrangements.
- 5.3 Effective counter fraud arrangements that demonstrate the council has good arrangements in place to support the Annual Governance Statement and to promote good corporate governance.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 – CRIME AND DISORDER, RISK AND OTHER)

- 6.1 The Chief Financial Officer has a statutory duty under the provisions of the Local Government Act 1972 to ensure the proper administration of the council's financial affairs.

The council's arrangements to prevent, detect and deter fraud and corruption comply with relevant legislation such as, Public Interest Disclosure Act 1998, Regulation of Investigatory Powers Act 2000 Proceeds of Crime Act 2002, Terrorism Act 2000 and the Money Laundering Regulations 2003 and 2007.

7. OUTCOMES OF CONSULTATION

7.1 There are no consultation outcomes to report

8. RECOMMENDATIONS

8.1 The Audit Committee should consider whether counter fraud work programme delivers a sufficient level of assurance on the adequacy of counter fraud arrangements.

8.2 The Audit Committee approves the Benefit Fraud Prosecution Policy.

SERVICE DIRECTOR FINANCE

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Background Papers used in the preparation of this report :

CIPFA - Code of Practice for Internal Audit in Local Government in the UK

Money Laundering Regulations 2007

CIPFA - Proceeds of Crime (Anti Money Laundering) practical guidance for public service organisations

CIPFA Risk of Fraud Red Book

Audit Commission Protecting the Public Purse

Anti Fraud Theft and Corruption Policy

Internal Audit Plan 2010/11 Counter Fraud Summary

Appendix A

Area	Scope	Planned Days	Progress
Creating and maintaining the anti fraud culture			
Publicity	Continued development of system, promotional and awareness raising activities, refresh to risk assessments, and strategy	10	The counter fraud survey results have been analysed and an action plan developed to raise awareness on counter fraud arrangements
Anti Fraud Theft and Corruption Strategy	Keep it fit for purpose and in line with best practice	5	The refreshed AFT&C Strategy was approved and launched In January. A summarised version is being produced along with further publicity material
Joint reporting	Ensure co-operation across all departments to be able to accurately assess fraud risk for the council	5	HR and Internal Audit have a protocol in place which includes information sharing.
Prevention			
Designing out fraud	Advice in areas where changes to systems are proposed - i.e. cheque printing in 2009/10 and ePayments, e revenues and ebenefits	10	A review of the localised cheque printing has recently been concluded. New projects are discussed with Internal Audit at an early stage.
Deterrence			
Fraud Newsletter and Council Wide Communications	Publication of a quarterly newsletter and issue of alerts and council wide communications	10	The first newsletter was published on the Internet and Intralinc in April. Articles are currently being edited for the next edition due in July. The counter fraud survey results have been used to determine future information needs.
Detection			
Data Matching – National Fraud Initiative (NFI)	Audit assistance in the annual exercise of data matching. In 2010/11 council tax matches and data submission for 2011/12 full exercise	10	Council Tax Single Residents matches are currently being investigated. Data requirements for the next submission in October are being considered
Hotline	Audit response to allegations received via the hotline	30	The number of calls has increased each year since 2005/06. Most calls received are council tax and housing benefits related. All calls are investigated
Money Laundering	Provision of the system set up client identification checks with services	5	Key staff have been trained
Investigation			
Proactive – misuse of council funds audits	Rolling programme of audits of potential misuse of council funds.	15	Internet use is included in the 2010/11 Audit Plan to be carried out later in the year.
Proactive – investigation of high risk income collection areas	Income based audits (5 sites)	50	Audits are currently underway b
Proactive – development of IDEA software	To identify areas where software can be used to detect and investigate fraud	10	Potential internal data matching areas have been identified.
Reactive Investigations		As required	

fraud focus

North Lincolnshire Council's counter-fraud newsletter No. 1 March 2010



Welcome

Welcome to the first issue of Fraud Focus. As part of our counter fraud work we will be producing a publication every quarter to keep you informed of the work the council is carrying out to prevent, deter and detect fraud, and how you can help us with this by being vigilant at work but also to safeguard yourself from fraudsters at home. **Carol Andrews, Audit & Risk Manager**



Identity theft

Is someone pretending to be you? **p3**



Reporting fraud

How you can do your bit **p2**



www.northlincs.gov.uk

Everyone's business...

Fraud costs the UK an estimated £28 billion a year. As not all frauds are reported the actual cost is much higher. Fraud can have devastating effects on businesses and individuals who suffer not only financial but emotional harm when they suffer a fraud directly. But there are also hidden costs of fraud to us all. The National Fraud Authority estimates that the cost of fraud is £621 per year for every individual living in the UK, and this cost is in such areas as the increase in insurance premiums, or bank and credit card charges, where insurers and the banking sector pass the cost of frauds on to us all.

Not only is fraud big business but fraudsters are becoming

ever more sophisticated in their methods. The fact that many financial transactions can take place without face to face contact, such as internet banking, only gives them further opportunity. Technology means that fraud is also an international threat as often organised units operate globally and commit fraud in any country.

Several sections have responsibility for combating fraudulent activities such as Trading Standards, Licensing, and the Housing Benefit Investigation Team. Internal Audit have a key role in combating fraud and promoting proper stewardship of public funds and provide a lead role on the council's Anti Fraud, Theft

and Corruption Strategy which can be found on our website. In each newsletter we will focus on the work of these enforcement sections and explain some of the ways you can help stamp out fraud – countering fraud is everyone's business.



Online transactions provide more opportunities for fraud

What is fraud?

The council has an Anti Fraud Theft and Corruption Strategy. It sets out our anti fraud culture and is designed to cover all wrongdoings which may result in a loss to the council. However due to the inventiveness and ingenuity of fraudsters we can't list all types of fraud. Instead we can define fraud, theft and corruption and the commonest forms of wrongdoing which this strategy aims to combat:

Fraud

Fraud is a deliberate act to deceive, where the fraudster attempts or is successful in taking the belongings of another. As the act is deliberate this does not cover a mistake or an error. An example would be benefit fraud.

Theft

Theft is where the thief aims to take the property or belongings of another but through a dishonest rather than deceptive approach. Examples would be robbery or stealing equipment.

Corruption

Corruption is where a person accepts some form of reward to do something outside of the normal procedure. An example would be accepting a cash sum or gift from a contractor in return for a contract.

Money laundering

Is a relatively new offence for councils but is where the fraudster would use the council to clean the proceeds of crime, or monies they have gained illegally.

Other actions

There is a wide range of other wrongdoings, which are not categorized as fraud and therefore not covered by the strategy but are just as important. Examples include: health and safety violations; racial, personal or sexual harassment; malicious falsehood; maladministration; downloading inappropriate material from the internet; physical and verbal assault; negligence; damage to reputation; alcohol and drug abuse, and mismanagement. Sabotage, malicious damage, vandalism, deliberate waste or spoiling of assets and computer hacking also lie outside this policy, but can be reported via the whistleblowers' hotline to be appropriately investigated.



You can call or email in confidence with any suspicions of wrongdoing

Seen something suspicious?

Like most councils we have a confidential reporting facility for staff and public to report suspicions of fraud. Trained Internal audit staff will respond to allegations received. The following frequently asked questions will give an idea of how this works. For further advice, call a member of the Internal Audit team.

How can I report a suspicion of fraud?

Call the council' hotline on 01724 296666. During office hours you can speak to a member of the team and report your concerns. Outside office hours you can leave a message on the same number or send an email.

Must I give my name?

No you don't have, although it can help us verify the information you provide.

Will my suspicion be treated in confidence?

Yes: all suspicions are treated with the upmost confidence. All staff are fully trained and are aware of the importance of confidentiality. Our records are held separately and securely from the rest of the council.

What happens after I report a suspicion?

Internal Audit staff carry out some initial checks to determine if a fraud is likely and who is best placed to investigate it.

For example, a specialist team deals with benefit fraud. Some cases may need to involve the police and we will make a referral. Most other cases are dealt with by Internal Audit.

Protect your identity

The council has access to many sources of guidance and alerts from other bodies which we use to ensure our systems and processes are not open to fraud. There are numerous types of fraud, with new and sophisticated types emerging all the time. In each publication we describe a type of fraud and how you can protect yourself.

Identity fraud is growing fast. Everyone is a target, and once your identity is stolen fraudsters can gain funds, and goods in your name. The following list of do's and don'ts should help minimise your risk:

Shredding personal documents can help protect your identity from theft



Don't...

- ◆ Supply personal information over the phone or email, unless you are certain who you're dealing with and were expecting their call or email.

Do...

- ◆ Be suspicious of emails asking you for personal details or to click on a link.
- ◆ Beware of callers from banks and other financial institutions. They should never ask for PINs, passwords or card security numbers
- ◆ Confirm who you're dealing with by calling them back on an independent number, not one provided to you by the caller or via email.

- ◆ Challenge unreasonable requests for personal information, even if the caller is able to provide some convincing data on you.
- ◆ Shred personal documents
- ◆ Protect computer passwords
- ◆ Have your mail redirected should you change address

Signs that you have been the subject of identity fraud include:

- ◆ Unknown transactions on your statements – if you discover one, contact your bank or card issuer and the third party straight away. Keep details of the contact in case it is needed later.
- ◆ Missing mail: check that your mail has not been redirected by a fraudster.

If you think you have been a victim, always contact your bank or card holder to place a stop on your account and consider contacting CIFAS, the UK's fraud prevention service (www.cifas.org.uk).

Recent scams

The council has been made aware recently of a number of attempts by fraudsters, claiming to be council employees, to obtain data from members of the public.

The fraudsters claim to be council employees who make contact with council tax payers to inform them of their right to a refund. They then obtain banking details – and identity theft and lost funds can occur where the scam is successful. Similar cases have been reported where the fraudster pretends to be from the tax office.

The council would never call members of the public in this manner and, should a refund be due, this would be stated in writing. Furthermore, refunds would be made by cheque and it would never be acceptable to ask for bank details.

If you are approached please contact the council on the main switchboard number and ask for Internal Audit, or you can call the Hotline on 296666.

Had a suspicious call? Check whether it was really from the council



Survey thanks

Thanks to all staff who completed the recent councilwide survey to assess levels of fraud awareness. We will use this data to carry out targeted training and publicity in the future.

Fraud facts - and how we act

- ◆ Identity theft costs the UK £1.7bn per year, an increase of 74% in 2009 alone
- ◆ 77% of household waste contains at least one item that would assist in identity theft
- ◆ 90% of people do not check their bank or credit card statements
You will find useful guidance on how to protect yourself from identity theft in this newsletter .

- ◆ In 2008/09 2.25% or £3bn of benefits was overpaid as a result of fraud and error
The council has a dedicated team to tackle benefit fraud.

- ◆ 500bn of criminal monies are laundered annually across the world. Last year, the Serious Organised Crime Agency received 220,000 notifications of money laundering in the UK.
The council has

developed an anti money laundering policy and trained key staff in its content, to prevent the council becoming a target for criminals wishing to launder their criminal proceeds.

- ◆ Credit card losses in 2008 totalled £609.9m; 10 years ago the total was £135m
The council does not use credit cards to make purchases. The council has assessed its procedures against the Payment Card Industry Standards and found our procedures to be effective.

- ◆ 54% of businesses have been a victim of online fraud
Councilwide communication is sent to council staff to ensure that the council does not fall victim to such scams. A future article will inform you how you

may protect yourself against online fraud.

- ◆ 1 in 6 CVs contain incorrect information
The council has a recruitment policy effective in ensuring potential employee credentials are checked.
- ◆ The first half of 2009 is showing the highest fraud levels since records began 21 years ago. The recession is thought to be the main reason
We have assessed the council's risk of fraud and this has been refreshed to take account of the increased risk during periods of recession.
- ◆ Insurance premiums have increased by 40% on average because of fraudulent claims
The council has effective measures in place to identify and report serial claimants.

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If you have any comments or suggestions on this newsletter, please email

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Introducing... Internal Audit

Several council departments deal with different types of fraud. In each issue we focus on a different service and how they combat fraud. For starters: Internal Audit – who we are and what we do...

Internal Audits are part of the Finance service headed by Audit and Risk Manager Carol Andrews. Based at Pittwood House, we also work at any of the council's offices, schools, homes or depots.

Internal Audit is primarily an appraisal function to check internal controls are in place, ensuring funds are used properly, and not lost to fraud. We work with managers on counter-fraud work to ensure we have the best systems in place to prevent and

detect fraud. However when frauds occur we will investigate them with other departments including the police if necessary. Our investigations aim not only to identify the culprit but also to recover money taken, and strengthen processes and systems to cut the risk of it happening again.

Fraud cases can be found while carrying out an audit but we also rely upon employees and members to make us aware of suspicions. We can be contacted (see our numbers, left) if you wish to speak to a member of the team directly. Alternatively you can email us via the council website or leave a message out of hours on the hotline. All calls will be treated in confidence.

BENEFIT FRAUD PROSECUTION POLICY

North Lincolnshire Council is committed to tackling and countering benefit fraud, recognising the drain it places on public funds.

The measures taken by the council in order to detect and deter housing benefit and council tax benefit Fraud are set out in the Housing Benefit Anti - Fraud Strategy and Business Plan. This document sets out the council's policy on the further action which will be taken following an investigation when it has been established that housing benefit and / or council tax benefit has either been obtained or an attempt has been made to obtain these benefits fraudulently.

OPTIONS AVAILABLE

If, after the investigation of an allegation of fraud, the evidence demonstrates that fraud has been established 'beyond doubt' and the case is considered serious enough to warrant further action being taken, the council has three options: -

1. To prosecute
2. To offer an administrative penalty.
3. To offer a formal caution

Each case will be considered on its own merits and the council will not operate a blanket policy of instigating a sanction purely on the amount of overpayment.

PROSECUTION

Prosecutions will be brought using the following legislation:-

- S111 Social Security (Administration) Act, 1992
- S112 Social Security (Administration) Act, 1992
- Theft Act, 1968
- The Fraud Act, 2006
- Criminal Attempts Act, 1981
- Any other relevant legislation.

Cases will be referred promptly to the council's Legal Department.

Following joint investigations with the Department for Work and Pensions, cases will be referred to their solicitors, SOLP.

Cases may be referred to the police and / or the Crown Prosecution Service (CPS) should a case be deemed to be too serious for the council to deal with.

DECISION TO PROSECUTE

The decision to prosecute an individual is a serious matter. Each case should be considered on its own merits.

A ' Decision to Prosecute' pro-forma must be completed in every instance giving details of the offence, the other options that have been considered and why it is proportionate and appropriate to bring proceedings,

In recommending prosecution there are two tests to consider:-

- The Evidential Test
- The Public Interest Test

The Evidential Test

The investigation must have established sufficient evidence against the defendant to provide a realistic prospect of conviction. That means that a bench of magistrates or a jury are more likely than not to convict the defendant of the offence prosecuted.

The Public Interest Test

The public interest test must be considered after it has been determined that evidence exists which would provide for a realistic prospect of conviction.

If a case is deemed serious enough to bring proceedings, a prosecution will usually follow unless there are any public interest factors tending against prosecution which clearly outweigh the reasons for prosecuting.

Although in many instances there may be some public interest factors against prosecution, usually these are outweighed by the reasons for prosecution and as such the matter should still be brought to court. If in doubt advice should be sought from Legal Services.

The factors both for and against prosecution must be balanced carefully and fairly. Public interest factors are usually the seriousness of the offence and the circumstances of the defendant. Some factors may increase the need to prosecute whilst others suggest another disposal may be more appropriate

Public Interest Factors in Favour of Prosecution

- A conviction is likely to result in a significant sentence.
- The defendant was in a position of authority or trust.
- The offence was premeditated.
- The defendant was a ringleader or an organiser of a multiple offence.
- There is evidence that the offence was carried out by a group.
- The defendant has previous convictions for benefit fraud or dishonesty or has such a poor record and is clearly a 'professional criminal' that no other disposal is suitable.
- There are grounds for suspecting that the offence is likely to continue or be repeated.
- The offence, although not serious in itself is widespread in the locality and a prosecution for deterrence purposes is highly desirable.

Public Interest Factors Against Prosecution

- The court is likely to impose a very small or nominal sentence.
- The offence was committed as a result of a genuine mistake or misunderstanding
- The loss or harm can be described as minor and was the result of a single incident, particularly if a genuine mistake as described above.
- There has been an unreasonable delay between the offence being perpetrated and the person being brought to court. (Article 6 European Convention on Human Rights).
- A prosecution could potentially have a very bad effect on the defendant's physical or mental health, (this must be considered carefully against the seriousness of the offence).
- The defendant is very elderly or is now, or was at the time of the offence being committed, suffering from significant ill health, (this must be considered carefully against the seriousness of the offence).
- The defendant has repaid the overpayment in full (but there must be no suggestion of a defendant buying their way out of a prosecution).

FURTHER PROSECUTION CONSIDERATIONS

If the evidential test and the public interest tests are satisfied, the following factors will also have to be taken into consideration.

These include: -

- The amount of the overpayment
- The duration of the fraud
- Voluntary disclosure
- Failure in benefit administration (official error).
- Prevalence of similar fraud in the area.
- Any evidence of collusion with employer or landlord.
- Deterrence factors of good publicity.
- Did the defendant continue to deny the offence even when confronted with the evidence?
- Whether prosecution would result in any negative publicity for the council.
- Whether the evidence obtained satisfies the admissibility criteria or could be deemed to be 3rd party hearsay. This is particularly relevant to “living together as husband and wife” investigations.
- Ensuring compliance with the Police and Criminal Evidence Act, 1984 (P.A.C.E.)
- Ensuring compliance with Criminal Procedures and Investigation Act, 1996 (C.P.I.A.)
- Ensuring compliance with the Regulation of Investigatory Powers Act, 2000 (R.I.P.A.)

APPLICATION OF SANCTIONS

A caution or administrative penalty should only be offered if the evidence obtained supports a prosecution.

- **Formal Caution**

This is an alternative to prosecution and is the same as that administered by the Police.

Formal Caution should be applied in cases that are deemed not quite serious enough to warrant prosecution i.e. the overpayment is at the lower end of the scale - normally below £2,000.

The caution should only be considered if the defendant has fully admitted the offence at interview and has no previous convictions. It will therefore be necessary to undertake checks with the Administration and Support Unit at Scunthorpe Police Station and with the Department for Work and Pensions.

If cautions or prosecutions for benefit fraud and / or theft or deception offences already exist then the case is probably not suitable for a caution and an administrative penalty or prosecution should be considered.

However, there are instances when it might be appropriate to offer a caution for an amount in excess of £2,000 if either the Investigation Manager or Legal Department felt it was inappropriate to prosecute but the offence was serious enough to warrant further action. Any reasons will be fully recorded on file.

Similarly, there may be instances when an overpayment falls into the category to consider for a formal caution but because of the nature of the offence it is more appropriate to prosecute. Again any reasons will be fully documented on file.

Following joint investigations with the Department for Work and Pensions a caution may be offered if both parties agree it is appropriate provided that the collective overpayment falls into the financial threshold of either the council or the DWP's prosecution policy.

A 'Decision to Caution' pro-forma must be completed in every instance giving details of the offence, the purpose of the caution and explaining why the offer of a caution is appropriate.

The Investigation Manager is designated as the officer responsible for conducting the formal caution interview and offering the caution. The Senior Investigation Officer or occasionally the Investigation Officers may deputise in his absence.

- **Administrative Penalty**

This can be considered for offences, which have resulted in overpayments below £2,000. The penalty is essentially a 30% 'fine' of the overpayment amount.

Generally it should be considered when the Investigation Manager or Legal Department are of the opinion that a prosecutable offence has been committed but that criminal proceedings are inappropriate in the first instance. Usually this means that the claimant has not admitted the offence therefore a Caution is inappropriate, his previous convictions preclude a formal caution being offered but as the

overpayment is at the lower end of the scale a prosecution may not be the first option.

Unlike the formal caution there is no requirement for the defendant to make a written admission of the offence.

However, should the defendant refuse to accept the penalty, a prosecution should follow in most cases.

Although a penalty can be considered for overpayments below £2,000, the Investigation Manager and Legal Department may still consider commencing criminal proceedings if it was felt more appropriate.

Following a joint investigation with the Department for Work and Pensions an administrative penalty may be offered if both parties agree it is appropriate provided the collective overpayment falls into the financial threshold of either the Council's or DWP's prosecution policy.

A 'Decision to Offer an Administrative Penalty' pro-forma must be completed in every instance outlining the offence, the purpose of offering the penalty and explaining why an administrative penalty is the most suitable disposal.

The Investigation Manager is designated as the officer to be responsible for conducting the administrative penalty interview. The Senior Investigation Officer or occasionally the Investigation Officers will deputise in his absence. However, legislation also allows for the DWP to conduct a penalty interview on behalf of the council.

- **Prosecution**

All cases of **proven** fraud with an overpayment in excess of £2,000 will be considered for prosecution.

However, there is no minimum value to be prescribed and should either the Investigation Manager or Legal Department or the Department for Work and Pensions in joint investigations consider it appropriate, a prosecution may be brought for a lesser amount.

There may be circumstances when the Legal Department or Investigation Manager considers it more appropriate to offer an alternative sanction for a case which meets the financial value for a prosecution. In such instances the reasons for doing so will be fully documented.

A 'Decision to Prosecute' pro-forma must be completed in every instance giving details of the offence, the other disposal options that have been considered and why it is suitable and proportionate to prosecute.

Files will be prepared by the investigating officer as soon as possible and referred to the Investigation Manager to check and make recommendations to the council's Legal Department. The Senior Investigation Officer will review files in the Investigation Managers absence.

Publicity will be sought by contacting Public Relations prior to a case being heard at court.

In the event of any case referred to the Police it is for them to decide the whether a prosecution or other disposal is appropriate.