

# Anti-Fraud Documents

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A strategy to support the Corporate Anti-Fraud and Corruption Policy.

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## 1. Introduction

Government thinking on fraud can be seen in principle seven of the Governments Green Paper on welfare reform which states that,

*"The system should encourage openness and honesty and the gateways to benefit should be clear and enforceable".*

The paper proposes a "three-pronged campaign against fraud" by:

- *Improving detection;*
- *Implementing more effective deterrence;*
- *and Better measures for protection.*

The above and the statement that, "Government's strategy is to shift the emphasis away from detection towards preventing fraud from occurring in the first place" have been reinforced by the introduction of the "**Verification Framework**", "**Audit Commission Monitoring**" and the "**Benefits Fraud Inspectorate**"(BFI).

These developments are an attempt to standardise benefit administration across the country. In setting and monitoring standards both the BFI and the Audit Commission have been and will continue to examine local authorities to ensure that Councils have a **Fraud Policy, Fraud Strategy and a Prosecution policy**.

In recent years the Audit Commission and the Benefit Fraud Inspectorate have both written reports clearly recommending that Local Authorities "should develop and adopt anti-fraud strategies".

An Anti-Fraud Strategy should relate to and complement policies such as:

- *Whistle Blowing Policy;*
- *Equal Opportunity;*
- *Officer's Codes of Conduct, and*
- *A future Anti Poverty Strategy.*

This paper presents a draft "Anti-Fraud Policy", "Anti-Fraud Strategy" and "Prosecution Policy"

## 2. Anti-Fraud Policy

### (1) Statement of Intention.

Pendle Borough Council (the Council) is committed to the provision of Housing/Council Tax Benefit to its residents. The Council recognises that benefits are for those in society that are the most vulnerable, and that these benefits should be assessed and paid within Government Guidelines.

The Council is committed to its customers and, will ensure that those people who are in need of benefits, are encouraged to take up the service, and that those customers receive the benefits to which they are entitled.

The Council recognises, however, that some people will attempt to obtain benefit to which they are not entitled. Where this is a deliberate act, i.e. where the individual intends and plans to obtain benefit to which they are not entitled, the Council will consider the circumstances of the person(s) involved in deciding what course of action to follow, and will, where appropriate, consider prosecution of the offender under the Social Security Administration Act (1992) S.111a.

### (2) Action on Overpayment of Benefit.

In some cases, benefits will have been obtained from the Council where there is either no entitlement, or the amount awarded is greater than an individual's circumstances warrant, e.g. where there has been a change in a customer's circumstances that has gone unreported. This may have been done, not as a deliberate act, but with the knowledge that the change in circumstances should be reported to the Council, and that the change could affect the amount of benefits the individual is entitled to receive. Under these circumstances the Council will consider the particulars of each individual case and, where the customer could reasonably be expected to know that the failure to report the change in circumstances would cause a fraudulent overpayment of benefit, the Council will consider prosecution under the Social Security Administration Act (1992) S.112. Where the Council undertakes a prosecution it will apply for the overpayment to be repaid through the Magistrates or Crown Court as compensation.

Where appropriate, the Council will consider applying a 30% administration penalty, based on the amount of the overpayment. As seen in the Prosecution Policy, an administration penalty will tend to be offered in the case of lower level frauds. The Council should prosecute an individual who declines to accept the offer of a penalty. Therefore, the investigation must be undertaken in accordance with the Police and Criminal Evidence Act.

It is not always in the public interest to take such action against a person who has either, knowingly made a false claim, or failed to report a change of circumstances which has resulted in them obtaining benefit to which they are not entitled. Under these circumstances the Council will seek to recover any overpaid benefit. It is not the Council's intention to place its customers in financial hardship, and reasonable arrangements for the repayment of any overpaid benefit will be sought. However, failure to come to an arrangement, or failure to repay the overpaid benefit, will result in the Council taking civil recovery action through the courts.

### **(3) Action on Overpayment to Landlords.**

Payments of benefit are often made direct to a customer's landlord. In some cases, landlords falsify or assist their tenants to falsify claims for benefits. Landlords who commit an offence under the Social Security Administration Act (1992) S.111a. will be prosecuted by the council. If a tenant has committed fraud without the landlord's knowledge, the Council will recover the overpayment from the tenant, rather than the landlord's future payments.

Where a landlord is receiving benefit on behalf of his tenant(s), he has a duty to notify the Council of any changes in the tenant's residency of the property. Failure to report such a change could result in the landlord receiving more benefit than they have a right to receive. The Council makes landlords aware of their duty to report known changes and failure to do so is an offence under Social Security Administration Act (1992) S.112. Where an offence has been committed, the Council will consider prosecution. The Council will also seek to recover any overpaid benefit from on-going payments of benefit that the landlord receives or through civil recovery action through the courts. The Council will prosecute any persons involved in planned fraud that involves more than one person.

The Council will use all the powers granted to the Council by the Secretary of State for Social Security under the Social Security Administration (Fraud) Act 1997. Namely the powers of inspection and the power to obtain information from landlords.

### **(4) Working in Partnership with other Organisations.**

Where necessary, the Council will work in co-operation with other organisations such as the Police, Benefits Agency, Inland Revenue, the Home Office and Customs and Excise in order to combat organised fraud.

### **(5) The Data Protection Act.**

The Council will be correctly registered under purpose 058 of the Data Protection Act 1988. Where required, the Council will use exemption 28, in order to protect those organisations that may have information to supply to the Council in its investigation of fraudulent claims to benefits.

### **(6) Duties and Considerations of Anti-Fraud Officer.**

Whilst investigating cases of alleged fraud, the Councils fraud inspectors and visiting officers will work within the guidelines of the Police and Criminal Evidence Act and shall apply the Councils policies on Customer Care and Equal Opportunities. The investigators will conduct their enquiries in accordance with the Code of Conduct for Investigators. The Council officers will, at all times, take appropriate action to maintain confidentiality.

It is the duty of the fraud investigators and visiting officers to investigate all referrals of suspected or alleged benefit fraud and to establish the facts of each case.

## **(7) Duties and Considerations of Council Employees**

The Council will require all Council officers involved in the administration of benefits to report to the Benefits Manager details of any property that they are renting to tenants and any claims of benefit to which they have some connection.

Interest in a benefit claim must be registered in the Register of Interests in accordance with agreed procedures.

All offers of gifts and/or hospitality made to a Council employee as a result of their role as an employee must be reported to a senior officer and registered in the Register of Gifts and Hospitality in accordance with agreed procedures.

Any Council Officer found to be involved in an offence under the Social Security Act 1992 or any other criminal offence involving claims of benefit at this Council, any other Council, the Benefits Agency or the Inland Revenue, will be disciplined under the Council's disciplinary procedures in addition to any prosecution proceedings that may occur.

Where a Council officer undertaking a fraud investigation abuses their powers, an investigation will take place with a view to disciplinary action being taken.

## **(8) Duties and Considerations of Elected Members**

The Council will require all elected Members to report to the Benefits Manager details of any property that they are renting to tenants and any claims of benefit to which they have some connection.

Interest in a benefit claim must be registered in the Register of Interests in accordance with agreed procedures.

All offers of gifts and/or hospitality made to a Council Member as a result of their role as a Member must be reported to a senior officer and registered in the Register of Gifts and Hospitality in accordance with agreed procedures.

## **(9) Whistleblowing Policy.**

The Council has set out its policy on whistleblowing. Council employees and Elected Members are required to inform the Council of any abuse of power perpetrated by colleagues and the Council shall follow the procedures set out in its whistleblowing policy when responding to such allegations.

## **(10) Benefit Administration and the Verification Framework.**

The Council believes that it is important to discourage and prevent fraud from taking place in the first place. In order to achieve this, the council will implement vigorous procedures for the verification of claims, the minimum standard of which will be the guidelines given in the Department of Social Security's Verification Framework. The Council will work towards a successful implementation of the Verification Framework.

However, the close scrutiny of each claim shall not interfere with the Councils commitment to ensuring that benefit is delivered within the Government time scales.

To maximise take-up of the benefits available, the Council shall provide assistance to its customers in applying for benefit. The Councils application form for Housing/Council Tax Benefit will include questions and instructions in plain language giving clear directions to what is required of the customer. The form will carry warnings and information so that the customer is aware of the risks involved in misinforming the Council of their circumstances. The form will carry all the information the customer requires to understand their rights. Guidance to completing the form shall be available in the majority of languages that are spoken within the borough.

The Council will put in place systems which will allow the customer to request assistance to complete their application form and to inform the council of changes to their circumstances.

The Council is committed to controls designed to prevent fraud being perpetrated by its own staff. Therefore, all staff in the Benefits Section will be rigorously vetted at the time of application. If misinterpretation is found to have occurred on the application form or interview, disciplinary procedures will be considered.

## (11) Resource Management Committee

The Council will monitor performance of the Anti-Fraud strategy through the Resource Management Committee.

## (12) Summary

- The Council is committed to ensuring that people should get all the benefits to which they are entitled.
- The Council will take appropriate action against those who systematically obtain benefits to which they are not entitled.
- All benefit that a customer obtains to which they are not entitled shall be repaid in full. However, the Council will consider the circumstances of each individual debtor to determine the method and level of recovery.
- The Council will respect the civil liberties of all persons involved in the investigation of alleged fraud.
- This policy follows principle seven of the Governments Green Paper on welfare reform in-so-far as it implements the three pronged campaign against fraud: improved detection; more effective deterrence and better prevention.

### 3 Anti-Fraud Strategy

Pendle Borough Council's anti-fraud policy represents a commitment by the Council to implement a robust anti-fraud strategy in order to protect public funds and to ensure that benefits are delivered only to those who have a true entitlement to them.

This strategy outlines the way in which the Council will deliver this commitment to its customers.

#### (1) Verification of Housing/Council Tax Benefit Claims

All customers claiming Housing/Council Tax Benefit will be subject to verification or review (either by visit or postal check) at least once a year.

The information on the application form shall be verified by the Housing/Council Tax Benefit Officers and Housing/Council Tax Benefit Visiting and Investigations Staff. Officers shall verify all supporting documents.

Care will be taken to verify the information and documentation provided and where necessary, this will include an interview under section 110 of the Social Security Administration Act 1992, and in line with the Police and Criminal Evidence Act.

Evidence will be collected in compliance with the Data Protection Act 1984.

#### (2) Checking Residency

The Council will maintain a strict visiting regime in order to confirm residency and cross-reference the information on the application form.

All new Housing Benefit claimants shall be visited prior to benefit being calculated. This will include those claimants in receipt of Income Support or Job Seekers Allowance.

Once the Department of Social Security's Verification Framework is implemented, home visits shall be made in accordance with the intervals specified within the Core Instructions.

### **(3) Visiting/Control and Liaison Officers**

The visiting programme has been set up to identify possible fraud or errors, but will also provide the opportunity to improve the services offered to customers. This will be done by answering any questions they may have, confirming the details of the claim to ensure payments are correct and ensuring they receive all the benefits to which they are entitled.

The Council will appoint designated Fraud Officers whose duties are to investigate cases of suspected or alleged Housing/Council Tax Benefit fraud. These officers will be required to visit customers in their homes in order to gather information to ensure that the customer's circumstances are the same as the circumstances stated on the application form.

The Visiting/Control and Liaison Officers will conduct their interviews in accordance with the Council's policies regarding Customer Care, Equal Opportunities and the instructions contained along with the Code of Conduct for Investigators.

### **(4) Anti-Fraud Freephone Hotline**

The Council will provide and maintain a free telephone line to enable concerned members of the public to report cases of suspected fraudulent activity. This hot-line will be private and confidential and all calls received via the hotline shall be investigated by the Fraud Officers.

### **(5) Publicity of the Anti-Fraud Hotline**

All publicity should seek to tell the public that the Council has a dedicated investigation team that investigate fraud and potential fraud and that legal action will be taken against those defrauding the Council.

The anti-fraud hotline shall be widely advertised in all Council publicity along with newspaper adverts, articles and features through the local media.

All successful prosecutions will be reported to the media.

### **(6) Data Matching**

The Council will join the Department of Social Security's Housing Benefit Matching Service, which checks for duplicate claims with other local authorities and the Inland Revenue's Working Families Tax Credit scheme. The Council will also join the National Fraud Initiative administered by the District Audit, which allows for a comparison between Housing Benefit data against other data sources. The Council will also run data matching exercises against its own databases, including those holding information on Council members and employees. Recognised trade unions will be consulted prior to data matching concerning Council members and employees. At all times, the council shall adhere to the principles laid down by the Data Protection Act 1984 in the area of Data Matching.

## **(7) Working in Partnership**

The Council is committed to working closely with the Police, the Benefits Agency and other local authorities and will exchange information with these and other organisations in accordance with the Data Protection Act 1984. Where possible, the Council will work in partnership with these agencies in targeted Fraud Drives.

## **(8) Targeted Proactive Fraud Campaigns**

The Council will undertake at least two specific fraud campaigns each year. This will be done either in partnership with other organisations or alone. All campaigns will be designed with regard to the requirements of the Councils Equal Opportunity Policy.

## **(9) Monitoring Registers of Interest**

The Council will undertake regular checks on all properties registered in The Register of Interest to ensure that no benefit payment has been made in respect of these properties without the knowledge and consent of the Housing Benefit Manager or of the Financial manager (Revenues).

## **(10) Investigation Procedures for Cases referred via Whistleblowing Policy**

The Council will investigate all allegations of abuse made under the Whistleblowing Policy. Investigations shall be carried out with the provisions of the policy, in particular, the Council will have due regard to the confidentiality of the persons involved.

## **(11) The Fraud Management System**

The Council will provide the Fraud Module element of the First Software system that shall interface with the Housing Benefits Computer System. This will assist the investigation officers by aiding the proper management, monitoring and recording of relevant claims.

## **(12) The Document Image Processing System**

The Council will install a Document Image Processing System in order that all documents relating to a customer's claim can be stored electronically and viewed on a computer screen. These documents could then be displayed on screen at a later date to aid investigations.

## **(13) Exchange of Information with Other Organisations**

The Council is keen to exchange information by working with

- The Police
- The Benefits Agency
- The Inland Revenue
- Customs and Excise
- Other Local Authorities

- Other Council Departments

Whilst the Council is committed to the exchange of information with other organisations, the Council will observe the law on Data Protection and the rules of confidentiality at all times.

#### (14) The Police and Criminal Evidence Act (PACE) Code of Conduct/Taking Statements and Recording Evidence

During the course of an investigation, the Council and its employees will observe the Police and Criminal Evidence Act Codes of Conduct. The customer will be advised of their rights and any evidence obtained will be obtained and secured in accordance with the Act. These Codes of Conduct will be observed when taking statements.

#### (15) Land Registry Link

The Council will implement an electronic link with the Land Registry. This will enable the Council to confirm the ownership details of Rent Allowance claims and reduce the potential for landlord fraud.

#### (16) Do Not Redirect

The Council will work in partnership with the Post Office to operate the Do Not Redirect scheme. This will prevent correspondence being forwarded to a claimant's new address after they have vacated their benefit address.

#### (17) Training

The Council will expect its investigators to be fully trained and to maintain this training. Wherever possible, it is desirable for investigators to hold suitable qualifications.

## 4 Prosecution Policy

Pendle Borough Council is committed to protecting public funds through its investigations into cases of Housing/Council Tax Benefit fraud. Where a customer has been accused of committing a fraud against the Council and enough evidence has been gathered to sustain a prosecution, the Council must decide what course of action to follow.

### (1) The test of “Public Interest”

- If the overpayment is under £200.00, and
- The claimant has never previously offended, and
- There was no planning involved in the process, and
- There was no other person involved in the fraud, or
- The Council believes that, in most cases, it would not be in the public interest to prosecute, offer an Administrative Penalty or issue a caution.

### (2) Caution

- If the overpayment is under £600.00 and over £200.00 and
- It was a first offence, and
- There was no planning involved in the process, and
- There were no other persons involved in the fraud.

Then, in most cases, the Council will make the offer of a 30% penalty. However, the Council will take into account the age, capability and financial circumstances of the person .

### (3) Penalty

- If the overpayment is under £1,500.00 and over £600.00 and
- It was a first offence, and
- There was no planning involved in the process, and
- There were no other persons involved in the fraud.

Then, in most cases, the Council will make the offer of a 30% penalty. However, the Council will take into account the age, capability and financial circumstances of the person.

### (3) Prosecution

- If the overpayment is over £1,500.00, or
- It was not a first offence, or
- There was planning involved in the process, or
- There were other persons involved in the fraud.

then, the Council will, in most cases prosecute. However, the Council will take into account the age, capability and financial circumstances of the person.

Some cases may not fall into one of these categories. Each case will be considered on its own merits to determine the most appropriate course of action.

Statistics and the amounts involved will be reported to the Council's Executive, together with a general explanation of the action taken.

### (4) Administrative Penalties

The offer of a penalty should be made in a special interview. A penalty can only be offered if the case could be brought to prosecution. The offender should be told at the interview that:

- It is not an interview under caution
- Acceptance of the penalty is not an admission of guilt
- Recovery of the penalty will occur in the same way as the recovery of the overpayment
- They have 28 days in which to change their mind should they accept the penalty
- Failure to repay the debt or default on instalments will result in them facing civil proceedings for recovery

It should be noted that a penalty cannot be added to a Local Authority tenants rent account or treated as rent arrears.

### (5) Cautions

The offer of a caution should be made in a special interview. A caution can only be offered if the case could be brought to prosecution. The offender should be told at the interview that:

- It is not an interview under caution
- Acceptance of the caution is an admission of guilt.
- The caution is not a criminal conviction.
- The caution may be cited if there is any subsequent conviction by a court for a different offence.