

**AUDIT COMMITTEE MEETING****Agenda Item: 6**

<b>Meeting Date</b>	25 September 2013
<b>Report Title</b>	Benefit Fraud Annual Report 2012/13 – “Activity & Outcomes”
<b>Portfolio Holder</b>	Duncan Dewar-Whalley
<b>SMT Lead</b>	Brian Planner
<b>Head of Service</b>	Brian Planner
<b>Lead Officer</b>	Filmer Wellard
<b>Key Decision</b>	<b>No</b>
<b>Classification</b>	<b>Open</b>
<b>Forward Plan</b>	<b>Reference number:</b>

<b>Recommendations</b>	1. Consider the results of the Investigation Team for year 2012/13.
	2. To note the impending changes: - a. Welfare Reform Act 2012 - The impact of Universal Credit, Council Tax Support and the Single Fraud Investigation Service – due to start in 2014. b. Corporate Anti-Fraud Team – Audit Commission & National Fraud Authority. c. Changes to Department for Work & Pension (DWP) Fraud Investigation Service performance measurement.

## **1 Purpose of Report and Executive Summary**

1.1 This report provides a summary of activities and outcomes undertaken during 2012/13 by Swale Benefits Investigation Team in conjunction with their partners from The Department for Work and Pensions (DWP) Fraud Investigation Service (FIS) under the banner of “One Customer One Team” (OCOT).

1.1.1 The report also introduces preliminary details of the proposed National Single Fraud Investigation Service which is due to commence in 2014.

## **2 Background**

2.1 **The primary role of the team is: -**

- The Detection / Investigation / Prevention of Benefit fraud.

- To ensure persons who commit fraud are dealt with appropriately in accordance with Swale Borough Council/ OCOT Prosecution and Sanction Policy with reference to the Crown Prosecutors' Evidential & Public Interest tests.
- Promote fraud awareness amongst staff, customers, landlords & other third parties.
- Support the work of the Benefits Department in ensuring errors are identified promptly and claimants receive their correct entitlement.
- Seek to minimise overpayments by timely intervention.
- Correctly use legislation, all viable sources of information and powers afforded under the Social Security Administration Act 1992 to conduct thorough and professional investigations.

## 2.2 Investigation Results for 2012/13

Note - Figures in brackets relate to year (2011/12) & [2010/11]

Number of cases referred for investigation	493 (683) [672]
Number of cases subject to investigation and closed	396 (624) [523]
Number of cases Cautioned for benefit offences	27 ( 42) [29]
Number of cases where Administrative Penalties accepted	14 ( 49) [17]
Number of cases prosecuted with guilty outcomes	13 ( 13) [15]
Total	54 (104) [61]

## 2.3 Overpayments identified by the Investigation Team in 2012/13

Value of Housing Benefit overpayments	£320,777.56 (£361,207.75)
Value of Council Tax Benefit overpayments	£57,206.18 (£111,657.67)
Value of DWP Benefit overpayments	<u>£109,711.45 (£184,709.99)</u>
Total	<u>£ 487,695.19 (£657,575.41)</u>

**Note** (Figures in brackets relate to year 2011/12)

## 2.4

As can be seen from the figures the yearly totals for year 2011/12 were exceptional and exceeded the targets for the team, all staff having reached or exceeded their respective targets. The figures have reduced partly because a reduction and change of staff in the team and also because of the change in the way DWP now work as explained later at point 6.0.

**2.5 Housing Benefit Overpayments** – The following demonstrates the contribution made by the Investigation Team in terms of “return on investment” and “protecting public funds”. The return on investment is treated as the recoverable

overpayments divided by all costs expressed as the amount of recoverable overpayment for every pound spent.

### **2011/12**

Team identified HB O/P = £361,207.75.

Total salary costs for the investigation team = £126,549

Return on Investment = 2.85

### **2012/13**

Team identified HB O/P = £320,777.56

Total salary costs for the investigation team = £101,466

Return on Investment = 3.16

From the above it can be seen that although the team identified less overpayments they provided a more cost effective service last year.

2.6 **Reduction in resources** – In the year 2012/13 the Investigation Team were reduced by one F/T equivalent post. This was as result of Fraud Manager resigning and her post being filled by the Supervisor Filmer Wellard. A further investigation post will be lost due to staff resignation in September.

2.7 **The present situation of the Team** – Over the past 3 years we have seen a reduction of staff in the team. Some of this came about through restructures and some through staff leaving. However, due to the pending introduction of Government changes under Welfare Reform we have reviewed the whole service function to ensure that we meet the future demands for the service and minimise the risk of future redundancy costs. We have therefore been in discussions with Maidstone and Tunbridge Wells regarding the possibility of a shared service.

Fraud investigations are currently carried out at all three partners and include the investigation of Housing and Council Tax Reduction Scheme Fraud. The function is already shared between Maidstone and Tunbridge Wells.

Under Welfare Reform, the government have introduced a Single Fraud Investigation Service (SFIS) from April 2014. Pilots are underway across the country with co-located officers from HMRC/DWP and LA working closely together to identify issues surrounding the investigation of Universal Credit when Housing Benefit ceases. Universal Credit will be introduced in phases with implementation starting in October 2013. The Housing Benefit caseload is likely to reduce between October 2013 to October 2017. Investigations into fraudulent Universal Credit claims will be carried out by DWP.

It is not known at this time if existing LA staff will be transferred across to DWP and a decision is expected sometime during 2014. However, regardless of how this transfer of staff and workload is managed it is important to retain an Investigation team to deliver fraud investigation services on the new Local Council Tax Reduction scheme.

The introduction of Universal Credit will have a significant impact on staffing arrangements and reduce the viability of existing teams. The best way to retain the maximum amount of expertise is to bring the work together for the three partners in a shared service to maximise economies of scale and create a sustainable body of work for a single team.

Under a new partnership arrangement our vision would be to provide a high performing, efficient, self-funded investigation service for partners that trades with external customers. Work for other organisations would be carried out through providing flexible, experienced, staffing on a project basis with pricing based on the amount of work carried out and outcomes achieved.

2.8 Until the partnership is fully agreed the SBC Fraud Team from September 2013 will be.

Filmer Wellard - Investigation Manager for Swale, Maidstone and Tunbridge Wells based at Maidstone from September.

Lauren Bovis	Investigation Officer	Ext 7813
Jan Wade	Assessment Officer (AO)	Ext 7158

### **3 Future Changes**

3.1 **Welfare Reform Act 2012** – The main elements of the Act included: -

- The introduction of Universal Credit and
- A stronger approach to reducing fraud and error with tougher penalties for the most serious offences based around: - Prevent / Detect / Correct / Punish / Deter.

3.2 **£50 fines (Civil Penalties)**

- From October 2012 Civil Fines can be applied where negligence is believed to be the cause rather than fraud. Local authorities are able to consider imposing a civil penalty in addition to recovery of the overpayment in all cases where they are satisfied that a claimant has failed to take appropriate care of their benefit claim or award, and they have no reasonable excuse for their failure or have not taken reasonable steps to correct their mistake and an overpayment has arisen as a result. (note: LA's have not been given any guidance in regard to the DWP's definition of what is 'reasonable'). DWP's policy states that recovery of a penalty should not cause undue hardship for the claimant so we have to bear in mind financial and personal circumstances when making an arrangement to pay. In addition, claimants have a right of appeal against an overpayment, a civil penalty or both.

After careful consideration of the cost of recovery, the cost of appeals, those customers already facing hardship wanting to make arrangements to pay and the need to monitor the payments of the penalties, it was considered that the administration costs would far outweigh the penalty charge. Therefore, it was

decided not to use the permissive power but instead include the warning of the penalty charge on all Benefit notifications.

### 3.3 **Simple Cautions**

- DWP Fraud Investigation Service (FIS) are only able to offer Simple Cautions where the offence was committed wholly before 01/04/12.
- LAs will be able to offer Cautions until the introduction of SFIS (April 2014).

### 3.4 **Administrative Penalties (Adpens)**

- (Clause 114) Will be able to offer Adpens for “attempts” i.e. where an offence of benefit fraud has been committed but the fraud is discovered and stopped before any overpayment (O/P) is made. In these cases the amount of the Adpen would be £350.
- (Clause 115) Provides for a minimum penalty of £350 or 50% of the O/P whichever is the greater (up to a maximum of £2K).
- (Clause 116) Reduces the time an individual, either claimant or employer, has to withdraw their agreement to pay the penalty (“cooling off period”) from 28 days to 14 days.
- Royal Assent was received on 08/03/12. Therefore the new measure was brought into force on 08/05/12 and will apply to cases where the offence(s) is committed wholly on or after 08/05/12. For offences that are committed prior to 08/05/12 or span 08/05/12, Adpens will be calculated at the old 30% rate.
- Admin Penalties increase personal debt, therefore potentially increase problems in recovery. This option would only be used where there is a reasonable expectation that we can recover both the O/P and the Adpen.
- In offering an Adpen SBC avoids potentially expensive legal costs in pursuing the offences through the courts. In 2012/13 the 14 Adpens generated an additional £3,106.19 in income, which is a reduction on the previous year but fewer Adpens were offered for the reasons stated above.
- It is questionable as to whether people might choose to take their chances in Court rather than accept such high Adpens.
- Because of the DWP policy that they will only investigate cases where the probable overpayment of benefit exceeds £2,000 to allow Prosecution. They have not undertaken any Adpens. It is understood that this Policy may have to be reviewed as income to DWP has been affected.

### 3.5 **Loss of Benefit Sanctions**

- Introduces further loss of benefit sanctions (currently 4wks) to 4wk / 13wk / 26wk / 3yr loss.

#### 4.0 Corporate Fraud

- 4.1 Audit Commission “Protecting the Public Purse 2011” urges Councils to ensure they keep the capability to investigate fraud that is not related to HB. A full copy of the 2012 “Protecting the Public Purse” report has been placed in the Members room and is available at <http://www.audit-commission.gov.uk/2012/11/protecting-the-public-purse-2012/>
- 4.2 National Fraud Authority (NFA) – “Fighting Fraud Locally – The Local Government Fraud Strategy” document has been placed in the Members room for reference. This seeks to ensure that a tougher approach is taken to tackle fraud against Local Authorities. Based around 3 themes of Acknowledge, Prevent and Pursue it reinforces the need for Local Government to introduce new arrangements to ensure it has a “resilient response to the changed conditions”.
- 4.3 Current levels of Local Government Fraud Losses (Published by Cabinet Office Fraud & Error & Debt Team): -

Housing Tenancy Fraud	£900m
Procurement Fraud	£855m
Payroll & Recruitment Fraud	£152m
Council Tax Fraud	£90m
Blue Badge	£46m
Grant Fraud	£43m
Pension Fraud	£8m
Housing Benefit & Council Tax Benefit (HB/CTB) Fraud	£110m

- 5.0 **Single Fraud Investigation Service (SFIS)** - In November 2011 Lord Freud announced that local authority staff currently employed on welfare benefit investigation will become part of SFIS from 2013. Staff will remain employed by local authorities, but operate under SFIS “powers, policies and procedures”. The High Level Design Document issued on 30/04/12 provides some limited details on the proposals.
- 5.1 In preparation to the radical Welfare Reform changes, on 21/03/12, a letter was issued to Chief Executives alerting them to the need to “manage down benefits services whilst retaining enough capacity to provide face to face support”.
- 5.2 When SFIS commences Local Authorities will no longer have powers to prosecute Welfare Benefits.
- 6.0 **Changes to DWP Performance Measurement (wef 01/04/12)** – Members are asked to note Appendix A – Letter from Dave White – Head of Fraud Investigation Service re “FIS 2012/13 OPERATIONAL STRATEGY AND MEASURING WHAT WE DO”. This outlines a significant shift in DWP FIS performance measurement and priorities.

- 6.1 The change in DWP culture from “high volume / low value” to “reduced volume / high value” may impact on the Borough’s Investigation Team’s working practices and results; particularly as DWP success will be expressed in terms of high overpayments and prosecutions. It may further affect HB/CTB overpayment recovery rates as fraudulent overpayments are notoriously difficult to recover.
- 7.0 **Protection of Freedoms Bill 2012** – The Bill received Royal Assent on 01/05/12. A small part of the Bill concerns changes to Regulation of Investigatory Powers Act (RIPA) legislation for Local Authorities i.e. applications must be signed off by Magistrates. It also provides a prescribed list of offences which do not meet the serious crime criteria, but details where councils will be able to use the protection of the RIPA legislation.
- 7.1 Under future arrangements Housing Benefit will be incorporated in Universal Credit as a result the Borough’s officers would not be able to undertake surveillance as they would not be empowered to do so if not part of SFIS. As Council Tax reduction scheme cases do not have penalties that would allow surveillance it is envisaged that the Borough’s Fraud team would not undertake any surveillance unless it was for Tenancy Fraud or a Corporate Fraud case involving Criminal offences with a possible 6 month prison sentence.
- 7.2 The Investigation Team are not currently undertaking covert surveillance as it is not believed to be cost effective and it has been agreed where possible the Department for Work and Pensions will undertake this type of operation under the ‘OCOT’ agreement operated by the Borough’s Investigation Team.
- 8.0 **Social Housing Fraud**– the Department for Communities & Local Government – (DCLG) have produced a consultation document on the issues of social housing fraud.
- 8.1 Prompted by the Annual “Protecting the Public Purse” reports and the Consultation document we are currently seeking to identify ways in which the Borough could work with local Registered Social Landlords to tackle Housing fraud.
- 8.2 The three major Social Landlords in the Swale area (Amicus Horizon, Hyde, Moat) own a total of 6,108 properties.
- 8.3 In April 2010 there were 3,395 households on the Housing Register. As at 13/08/2013 there are 5,027 on the Register (48% increase).
- 8.4 As at 13/08/2013 there are 70 families in temporary accommodation.
- 8.5 It is estimated that 2.5% of Housing stock in London and 1% of stock elsewhere is unlawfully occupied.

- 8.6 It costs £150K to build one social housing property and £18K pa to house a homeless family.
- 8.7 A combined report was submitted for DCLG funding by the proposed Shared services Fraud Team and the various Social Landlords but this was unsuccessful as the majority of funding went to London and Metropolitan areas.
- 8.8 The Fraud Manger at Swale has undertaken Tenancy Fraud Training with Amicus Horizon and at present a Service Level Agreement is being agreed. It is hoped to encourage the other Social Housing providers to also engage in this form of joint working.
- 8.9 To date one Tenancy Fraud has been jointly undertaken with Amicus Horizon and the property is being recovered after it was abandoned by the alleged tenant. It is felt that the previously mentioned saving of Housing people in temporary accommodation (£18k) per household will justify the investigation team's involvement as it will be a saving to the Housing Budget.

## **9 Implications**

- 9.1 A failure to plan for the forthcoming changes, work with partners, embed a clear anti-fraud culture or provide adequate resources to combat fraud and corruption could leave the authority more susceptible to financial abuse and reputational damage.
- 9.2 The intended Shared Service of the Borough's fraud team with Maidstone and Tunbridge Wells is to offer some resilience in these times of unknown change. The introduction of Universal Credit and the Single Fraud Investigation Service has been delayed and it is not known to what extent the changes will affect the fraud investigation team in their work. Obviously if both are implemented in their entirety then there will no longer be any benefit fraud for the Investigation Team to investigate as Housing Benefit will be included within Universal Credit and the powers to investigate this benefit will be undertaken by Single Fraud Investigation Service. This would leave the Council Tax Reduction Scheme and other investigations such as Tenancy Fraud and Corporate Fraud within the remit of the Investigation Team. With this in mind then it is envisaged that the requirement may be for one investigation officer at each council with a manager overseeing this team if reduced to the bare minimum. If for whatever reason the Housing benefit element is not included within the Universal Credit then this may require a larger team.
- 9.3 It is also unknown at this time how many, if any of the LA staff will be incorporated into the Single Fraud Investigation Service and deal solely with Universal Credit offences. This creates further uncertainty as to retaining a viable Fraud investigation team across the shared service.



- 9.4 Because of the uncertainty of the introduction of both Universal Credit and The Single Fraud Investigation Service, the team is in a state of flux and is causing some uncertainty within individuals as to job security etc, hence the current spate of resignations and change of job roles. It is also causing problems in being able to anticipate the number of investigators required to maintain an efficient and viable investigation team for each of the Councils involved in the shared service. It is envisaged that a shared service will give resilience and enable the team to either decrease or expand as demand requires.

## **10 Appendices**

- 10.1 The following documents are to be published with this report and form part of the report: -
- Appendix A: Letter from Dave White – Head of Fraud Investigation Service re “FIS 2012/13 OPERATIONAL STRATEGY AND MEASURING WHAT WE DO”.

## **11 Background Papers**

- Audit Commission 2012 Annual Report on Protecting the Public Purse available from <http://www.audit-commission.gov.uk/2012/11/protecting-the-public-purse-2012/>
- National Fraud Authority (NFA) – Fighting Fraud Locally – The Local Government Fraud Strategy – Copy placed in the Members Room