

AUDIT COMMITTEE MEETING	Agenda Item:
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Meeting Date	22/05/12
Report Title	Benefit Fraud Annual Report 2011/12 – “Activity & Outcomes”
Portfolio Holder	Duncan Dewar-Whalley
SMT Lead	Brian Planner
Head of Service	Brian Planner
Lead Officer	Janice Watts
Key Decision	No
Classification	Open
Forward Plan	Reference number:

Recommendations	1. Consider the results of the Investigation Team for year 2011/12.
	2. Consideration be given to impending changes: - <ul style="list-style-type: none"> a. Welfare Reform Act 2012 - The impact of Universal Credit, Council Tax Support and the Single Fraud Investigation Service – due to start in 2013. b. Corporate Anti-Fraud Team – Audit Commission & National Fraud Authority. c. Changes to Department for Work & Pension (DWP) Fraud Investigation Service performance measurement. d. Protection of Freedoms Bill – Royal Assent 01/05/12 – Surveillance applications to Magistrates Courts. e. Housing Fraud – Dept of Communities & Local Government - DCLG Consultation document.

Purpose of Report and Executive Summary

- 1.1 This report provides a summary of activities and outcomes undertaken during 2011/12 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).
- 1.2 The report also provides preliminary details of the proposed national Single Fraud Investigation Service which is due to commence in 2013 and sets out some of the

impacts of this and other related legislative changes. This part of the report is primarily 'for information' but also provides an early indication of some of the fraud related issues that the Council will need to address over the coming year or so.

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 SBC / 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 2011/12

Note (Figures in brackets relate to year 2010/11)

Number of cases referred for investigation (See Appendix I for sources of referrals)	683 (672)
Number of cases subject to investigation and closed	624 (523)
Number of cases Cautioned for benefit offences	42 (29)
Number of cases where Administrative Penalties accepted	49 (17)
Number of cases prosecuted with guilty outcomes (See Appendix II for details of Prosecutions)	<u>13 (15)</u>
(Total)	<u>104 (61)</u>

2.3 Overpayments identified by the Investigation Team in 2011/12

Value of Housing Benefit overpayments	£361,207.75 (£440,189.81)
Value of Council Tax Benefit overpayments	£111,657.67 (£100,337.26)
Value of DWP Benefit overpayments	<u>£184,709.99 (£241,191.67)</u>
Total	<u>£657,575.41 (£781,718.74)</u>

2.4 **Comparison between the two years results show: -**

- Increased no. of referrals (+11)
- Increased no. of cases investigated (+101)
- Increased no. of Local Authority Cautions (+13)
- Increased no. of Adpens (+32)
- Small Reduction in no. of successful prosecutions (-2)
- Reduction in (£) value of overpayments (-£124,143.33 or 19%)

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”. It illustrates the value of HB O/Ps identified by the investigation team, expressed in terms of % of the total O/Ps identified by the Benefits Section: -

2010/11

Total HB O/P = £1,545,994.66.

Inv HB O/P = £440,189.81.

Therefore the Inv Team identified 28% of the total HB O/Ps allocated by the Benefits section.

Total CTB O/P = £422,539

Inv CTB O/P = £100,337

Therefore the Inv Team identified 24% of the total CTB O/Ps allocated by the Benefits section.

2011/12

Total HB O/P = £1,148,413.80.

Inv HB O/P = £361,207.75.

Therefore the Inv Team identified 31% of the total HB O/Ps allocated by the Benefits section.

Total CTB O/P = £354,885

Inv CTB O/P = £111,658

Therefore the Inv Team identified 31% of the total CTB O/Ps allocated by the Benefits section.

2.6 **Reduction in resources** – In the year 2010/11 the Investigation Team were reduced by one F/T equivalent post. Despite this reduction the team produced exceptional results in 2011/12.

Another restructure at the end of 2011/12 resulted in the loss of a P/T Investigation Officer and the F/T Investigation assistant wef 01/04/12. It is envisaged this may well have a detrimental effect on the teams output over the forthcoming year(s).

2.7 **The team now consists of: -**

Janice Watts	P/T Manager	Ext 7274
Filmer Wellard	Supervisor	Ext 7489
Darrell Allen	Investigation Officer (IO)	Ext 7138
Jenny Gibbs	P/T IO	Ext 7813
Jan Wade	Assessment Officer (AO)	Ext 7158

3 **Proposals**

3.1 **Welfare Reform Act 2012** – Members are asked to consider the implications.

The main elements of the Act included: -

- The introduction of Universal Credit (UC)
- &
- 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)**

- Civil Fines will be applied where negligence is believed to be the cause rather than fraud.
- Probable go live in October 2012.
- Probably an assessment function, thereby freeing up investigation time.
- Unclear as to who keeps the £50.
- LAs do not have to use the penalties.
- Additional work created where claimants appeal the decision to issue a fine.
- Additional collection issues, particularly once UC is introduced.
- Questions around criteria in deciding what merits a penalty. Need to ensure consistency i.e. in decision making / factors will be taken into account.

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 2013).

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 & 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 28days to 14days.
- Royal Assent was received on 08/03/12. Therefore the new measure will be 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 2011/12 the 49 Adpens generated an additional £26,531.36 in income.
- It is questionable as to whether people might choose to take their chances in Court rather than accept such high Adpens.

3.5 **Loss of Benefit Sanctions**

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

- 4.0 **Corporate Fraud** Members are asked to consider (in principle only at this stage) the development of an Anti-Fraud & Corruption Team that could lend investigative expertise to Internal Audit and assume responsibility for countering specific areas of Council fraud e.g. Revenues (e.g. Single Person Discount, NNDR, Local Council Tax Support due to commence in April 2013.)
- 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 2011 “Protecting the Public Purse” Report can be found at Appendix A.
- 4.2 National Fraud Authority (NFA) – “Fighting Fraud Locally – The Local Government Fraud Strategy” can be found at Appendix B. 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

- 4.4 Audit and Benefit Investigations Teams from Ashford, Maidstone, Swale & Tunbridge Wells Councils met in February to discuss emerging fraud issues. It was agreed that each authority would complete the Chartered Institute of Public Finance & Accountancy (CIPFA) “Fraud Resilience Evaluation Diagnostic” (FRED1) before meeting again on 08/05/12. Having used this tool to assess the effectiveness of control systems, cumulative knowledge & emerging fraud risks it

was agreed each authority would use the information obtained to inform the continuous development of fraud strategy and planning across the organisations. There may be further scope to work together to combat fraud. This may extend to working with Kent County Council, particularly in relation to high risk / value areas of fraud such as Council Tax and Blue Badge. These issues and the opportunities that they provide will be developed and pursued, where appropriate, over the coming months.

- 5.0 **Single Fraud Investigation Service (SFIS)** - Members are asked to consider Appendix C – “SFIS High Level Design Document” / Q&A sheet / letter to Chief Executives.
- 5.1 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.
- 5.2 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...”. A copy of this letter can be found at Appendix D.
- 5.3 Abdool Kara has expressed a desire for SBC to volunteer for both the Universal Credit and SFIS pilots proposed for 2012/13. The SFIS proposal has been discussed with DWP FIS management and a request submitted to the Fraud & Error Programme Communications team. If accepted it is considered SBC will gain an advantage in terms of profile, financial & implementation support, knowledge, experience, input into the design process etc.
- 5.4 SBC will need to ensure their Investigation Officers have the requisite skills and training to allow them to assimilate into the new service.
- 5.5 When SFIS commences Local Authorities will no longer have powers to prosecute Welfare Benefits. This may impact on the resources in SBC Legal Services Dept.
- 6.0 **Changes to DWP Performance Measurement (wef 01/04/12)** – Members are asked to consider Appendix E – 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 SBC Investigation Team’s working practices and results; particularly as DWP success will be expressed in terms of high overpayments and prosecutions. It may further effect HB/CTB overpayment recovery rates as fraudulent overpayments are notoriously difficult to recover.
- 6.2 There may be some value in considering a similar approach in terms of ROI (Return on Investment) in order to justify the continuation of the Investigation Team, without the need to cut resources further. This approach may have a knock-on effect on the Benefits Service who would need to find alternative methods of ensuring claims are paid correctly and overpayments are kept to a minimum etc.
- 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 The OSC has not yet issued revised Procedures & Guidance.
- 7.2 The Investigation Team are currently awaiting further instruction via SBC Legal Services regarding when the new process will commence and how these changes will impact on covert surveillance arrangements.
- 8.0 **Social Housing Fraud**– Members are asked to consider Appendix F - the Department for Communities & Local Government – (DCLG) Consultation document.
- 8.1 Prompted by the Annual “Protecting the Public Purse” reports and the Consultation document we are currently seeking to identify ways in which SBC 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 04/05/12 there are 3,974 on the Register (17% increase).
- 8.4 As at 04/05/12 there are 52 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 Not uncommon for Local Authorities to undertake fraud work in return for nomination rights to properties recovered.

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.

10 Appendices

- 10.1 The following documents are to be published with this report and form part of the report: -
- Appendix A: Audit Commission 2011 Annual Report on Protecting the Public Purse.
 - Appendix B: National Fraud Authority (NFA) – Fighting Fraud Locally – The Local Government Fraud Strategy.
 - Appendix C: SFIS High Level Design Document” / Q&A sheet / letter to Chief Executives (issued 30/04/12).
 - Appendix D: Letter, issued 21/03/12, to Chief Executives reference managing down Benefits services in preparation for 2013 Welfare Reform.
 - Appendix E: Letter from Dave White – Head of Fraud Investigation Service re “FIS 2012/13 OPERATIONAL STRATEGY AND MEASURING WHAT WE DO”.
 - Appendix F: Department for Communities & Local Government – (DCLG) Consultation document.

11 Background Papers

- 11.1 See above appends.