



Policy and Resources Committee – 17 January 2011

Benefits Counter Fraud Strategy

Purpose of report

The report presents the revised Benefits Counter Fraud Strategy for Member approval.

Attachment(s)

Appendix 1: Benefits Counter Fraud Strategy

1.0 Introduction

- 1.1 This counter fraud strategy relates specifically to the Benefit Service but is fundamental to the overarching Corporate Anti-Fraud and Corruption Strategy adopted by the Council.
- 1.2 When the original counter fraud strategy was produced in 1999, it was presented as a 'living document' which would be revised annually to reflect new developments and experience gained in countering benefit fraud.
- 1.3 Counter Fraud remains high on the national agenda, with benefit fraud estimated to be costing the country £1bn a year. However, surveys suggest that both national and local publicity is changing public perception of benefit fraud, making it socially unacceptable.
- 1.4 The Scrutiny Committee is an ideal forum for promoting the Council's policies of fraud prevention and detection.

2.0 Revisions to the Strategy

- 2.1 The revised document shows the new 'One Strike Sanction'.
- 2.2 In addition, a number of minor alterations have been made to the text of the document to make it clearer and more concise.

3.0 Equality and Diversity Implications

- 3.1 There are no equality and diversity implications arising from the proposals.

4.0 Legal Implications

- 4.1 There are no legal implications arising from the proposals.

5.0 Risk Management

- 5.1 There are no significant risks arising from the proposed recommendations in this report.

6.0 Financial Implications

- 6.1 There are no financial implications arising from the proposals.

7.0 Corporate Outcomes

7.1 Reducing benefit fraud plays a role in helping achieve the Council's priority outcomes of reducing crime. They are:

- Good quality of life – through a secure benefit system
- Good value for money – through improve recovery of overpaid benefit
- High quality service delivery – through conducting timely investigations
- Effective partnership working – through closer working with outside agencies.

8.0 Recommendation

8.1 The Committee is recommended to approve and adopt the revised Benefits Counter Fraud Strategy.

Legal	Power: Social Security Fraud Act 1997				
	Other considerations:				
Background Papers:					
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Date: 16 November 2010					
CFO		MO		CX	

(Committee Report Normal Rev. 22)



East
Northamptonshire
Council

Benefits Counter Fraud Strategy

**STAMPING OUT
BENEFIT FRAUD**

and associated policies

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Consultees

Internal	External
e.g. Individual(s) / Group / Section	e.g. Stakeholders / Partners /Organisation(s)
All staff	Audit Commission
CMT	Commissioner for Surveillance

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All Revenue and Benefit staff	Department for Work and Pensions

Links to other documents

Document	Link

Additional Comments to note

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Executive summary

The counter fraud strategy contributes towards four of the Council's corporate outcomes:

- Good quality of life – through a secure benefit system
- Good value for money – through improve recovery of overpaid benefit
- High quality service delivery – through conducting timely investigations
- Effective partnership working – through closer working with outside agencies

The economic downturn has already resulted in more benefit claims being received and an increase in fraudulent claims is reliably anticipated as an inevitable outcome of the current recession. Our aim is to pay the right benefit to the right people at the right time.

Maintaining a secure benefit system is vital to reducing fraud and error. Our experienced staff provides our best defence. We will work closely with Government agencies including conducting joint investigations. We will encourage the public to support our work through notifying us of suspected crimes.

The strategy sets out:

- What we expect from our staff and what their roles are.
- The precautions we will take when recruiting staff.
- How we will maintain a secure benefit system.
- How we will conduct investigations.
- How we will protect the data we hold.
- How we will communicate with the public.
- How we will measure the outcomes (success) of our work.

1.0 Introduction

East Northamptonshire Council recognises the importance of a counter fraud strategy in delivering a secure benefit service and is committed to seeing the strategy implemented effectively.

Nationally, benefit fraud is estimated to cost the nation over £1bn a year. Research shows that public opinion is changing; people think it's more important to stamp out benefit fraud than stopping litter, graffiti or tax evasion. Ninety-four per cent of the public canvassed, rated stopping benefit cheats as extremely or very important. Two thirds of the public strongly believe that abusing the benefits system is no different to stealing. At a national level, evidence shows money from benefit fraud is being used to fund criminal activity which underlines the importance of preventing benefit fraud.

This year, the total amount of local benefits awarded in East Northamptonshire will be £20 million pounds. Safeguarding such a large sum contributes towards the Council's corporate outcomes of providing high quality service delivery and good value for money. We promote effective partnerships through our collaborative working on joint investigations with the Department for Work and Pensions. Proactive counter fraud work also supports the Council's priority outcome of a Good Quality of Life by contributing towards making communities safer.

This is the tenth edition of our strategy document. When the original document was presented to Members in July 1999 the document was introduced as a 'living document', which grew with our experience. This edition continues to build on our experience and increased knowledge of this subject.

The role of the Scrutiny Committee makes it an ideal 'Champion' for the work we undertake. Regular reports are submitted to the Committee outlining the progress being made in combating fraud and corruption.

1.1 Definitions

Fraud is defined as the deliberate misrepresentation of circumstances, or the deliberate failure to notify changes of circumstances with the intent of gaining some advantage.

Corruption is offering, giving, soliciting or accepting an inducement or reward, which may influence the action of any person.

2.0 Statement of intent

2.1 Each year £20 million is awarded in both Council Tax and Housing benefits to people within East Northamptonshire. This provides much needed assistance to some of the most vulnerable people in society. However, wherever benefit is fraudulently obtained the public purse is robbed of the opportunity to provide greater relief in the long term. Constant vigilance is required to guard against the risk of either internal or external abuse of Public funds. Therefore, it is our intention to create an environment

within which fraud and corruption is clearly unacceptable and where staff and public alike feel at ease to report any suspicions they have.

2.2 Corporate approach (whistleblowing)

For this strategy to be effective Council-wide support and co-operation is essential. The Council's confidential reporting code sets out procedures for reporting any allegation of impropriety and creates an open environment, encouraging officers to report any suspicions should they arise. The code also offers protection to an officer disclosing such information. In addition, the Corporate Counter Fraud Strategy provides an overarching document for the protection of the whole Council organisation, against fraud.

2.3 Public participation

The public has an important role to play in supporting this strategy. Through the use of Nene Valley News and other publicity media, we will focus public attention on fraud issues. Public perception is changing and attitudes are moving away from viewing benefit fraud as a victimless crime towards the mind-set that this is no different to stealing. To raise the profile of our counter fraud work and to ensure the public identifies it has a part to play; we have designed a strapline (Help stamp out benefit fraud) to encourage public engagement which accompanies all our publicity. We will strive to create a culture, which encourages honesty and is intolerant towards fraud, deeming it socially unacceptable.

Our 24-hour telephone hot line (01832 742017) has already provided helpful leads on benefit frauds, we will continue to advertise this facility's availability for the public to use to advise us confidentially of suspected benefit abuse.

From time to time, we will publicise the success of our fraud team and bring successful prosecutions to public notice.

2.4 The role of the Scrutiny Committee

The importance placed on fraud prevention is supported at member level by the role played by the Committee in overseeing the implementation of this strategy and receiving regular reports on progress being made by the Benefits Investigation team.

3.0 Scope

This document outlines how the Council aims to undertake its role in preventing and detecting fraud from the benefit system. The Strategy, together with its associated policies, codes of practice and procedures, covers the whole benefit system from safeguarding the administration of the system to the investigation and determination of each case.

4.0 The role of council officers

4.1 Managing Benefit Administration

It is the Councils duty to protect public funds. Managers will be responsible for creating a counter fraud culture in their respective sections. Good communication is essential both internally and externally between Members, Officers, Claimants, Landlords and the Department for Work and Pensions (DWP). Quality audit (ISO 9001: 2008) and performance monitoring will be used to uphold high standards. Sound training, written procedures and effective systems, maintained by continual development and refinement are necessary to promote good administration. This will create an environment within which the sound verification of data and accurate assessment of benefit applications can take place.

- 4.2** If an overpayment of benefit has occurred, wherever possible this will be recovered. The procedures for this are set out in Appendix 1.
- 4.3** Where irregularities/suspicious are identified these will be referred to Designated Fraud Officers who, for the purposes of investigating Benefits Fraud, will be members of staff in the Fraud Investigation Section.
- 4.4** All Benefit staff and Customer Service Staff at the Rushden Centre will receive regular training in fraud prevention and identification procedures.
- 4.5** Referrals of suspected fraud will be dealt with in the strictest confidence and the identities of those providing information will be withheld. Written procedures providing information on how staff may make referrals are contained in the ISO 9001:2008 work instructions.
- 4.6** Providing feedback to staff originating referrals is an essential element of motivating staff to remain vigilant and make further referrals. Before investigations are finally closed, details of the outcome of the investigation will be related back to the officer originating the referral. In addition, any useful information helpful to staff for future reference (identified trends, etc.) will be reported to the staff of the benefit section through regular staff meetings.
- 4.7** Closer working initiatives will be supported and strengthened between the Council and other organisations such as the DWP and other Councils. The value of such arrangements has been recognised in improved working relations, better intelligence, security and performance. Service Level Agreements are entered into annually and periodically monitored to ensure standards are maintained.
- 4.8** The Verification Framework has been introduced to strengthen the standards under which benefit claims are submitted, assessed and paid.

4.9 Managing Investigations

It is recognised that effective and efficient investigations, leading to the identification of fraud and the imposition of sanctions, will act as a strong deterrent to others.

- 4.10** An efficient well-trained investigation team is essential to implementing this strategy. Staff will receive appropriate training for this purpose and be equipped with the necessary resources to carry out their role.
- 4.11** Fraud referrals will be evaluated and prioritised using a points system. Initial evaluation will take place within five working days of the referral being raised.
- 4.12** The Council supports the use of appropriate sanctions against fraudulent claimants. Sanctions will include cautions, penalties and prosecutions. Investigations will be proactive and include, targeting 'high risk' groups, targeted visits and co-operating in data matching exercises. Joint investigations with The Department for Works and Pensions fraud staff will also be undertaken.
- 4.13** To ensure sanctions are imposed with complete impartiality our 'Sanctions/Prosecution Policy' establishes a framework of guidance; see Appendix 2.

4.14 Staff Responsibilities

It is the responsibility of staff working within the Benefit Section to remain vigilant at all times towards attempted fraud and to report any suspicions immediately using the referral system.

- 4.15** The Council's Constitution contains a code of conduct for all staff. In addition, Benefit staff are required to adhere to the code of conduct reproduced in appendix 3 and provide a signed undertaking to comply with the requirements. The code lays down the minimum standards of conduct and professionalism required of an employee.
- 4.16** Staff must adhere to the principles of data protection and information security at all times ensuring that the Data Protection Act 1998 is never breached.
- 4.17** Officers appointed to the Counter fraud team of the Benefit Section will be provided with Terms of Reference (Appendix 4) in addition to their job description.
- 4.18** Annually, staff will be asked to complete a declaration of their interests, which might affect their work with the Council. See appendix 8.
- 4.19** Any officer with a pecuniary or non-pecuniary interest (however remote) in a benefit application shall declare their interest to the Monitoring Officer and to the Head of Service and shall take no part in the assessment or investigation of that claim.

4.20 Recruitment and Selection

Staff will be recruited in accordance with the corporate procedures for recruitment and selection. However, in addition, the following security checks will be undertaken. Verification of former employers, employment history and qualifications. Establish as far as possible the candidate's honesty and integrity. Identify if the candidate is subject to disciplinary action at current or most recent employment. Carry out competency tests. Wherever possible references will be obtained using the proforma document reproduced in Appendix 5.

4.21 All benefit staff will be required to have a Criminal Record Bureau check before their employment commences and at three yearly intervals. The Council will not accept Disclosures undertaken by other organisations.

4.22 Training

Staff will be fully trained in the work they are expected to undertake. Training needs will be identified at induction and thereafter at annual appraisal or where changes to legislation dictate. Full training records will be maintained to ISO 9001:2008 standards.

4.23 All benefit staff will receive training in fraud awareness and fraudulent document identification training at the time of their appointment and receive refresher sessions as required.

4.24 Staff involved in investigations and acting as 'Authorised Officers' will be given PINS (Professionalism in Security) training by the Department of Work and Pensions.

4.25 Safety from Potential violence

4.26 Procedures will be maintained to safeguard officers from threats of violence. All interview rooms used for benefit interviews will have security screening. Procedures are in place for monitoring the safety of investigators and visiting officers. Appropriate safety equipment is issued, which must be carried during working hours. Established procedures for dealing with violent claimants must be observed at all times. Officers must not knowingly place themselves at risk.

5.0 Security of the Benefits Environment

5.1 Information Technology

The Council's Council Tax Benefit and Housing Benefit data files are vital to the Council for the performance of their benefits service. The data held permits individuals to receive their correct entitlement, whilst accumulating the totals of payments made to enable the Council to recover from the Government its correct subsidy entitlement. The data contained is both highly confidential in relation to the personal data it contains and valuable in the financial details held. Any unauthorised access to this database could result in serious financial loss and corruption of the data held. Protection of this information is therefore, vital.

5.2 The system is protected by a 'firewall' to prevent unauthorised access to the system from the Internet and access via 'dial in' procedures are only opened when requested by authorised users and closed when work is complete.

5.3 The system and data is copied regularly for security and copies held securely on site in media fire safes and off site. This is the responsibility of the IT section.

5.4 Two levels of encrypted passwords limit access to the system to recognised users. Each user is assigned 'rights', which limits their working areas to those for which they are responsible.

- 5.5 Unattended computers automatically closedown and require a password to reopen.
- 5.6 The system administrator allocates rights and permissions. All access and entries made to the system are recorded against the user's name and date stamped.
- 5.7 Access to the network (which is a pre-requisite for accessing the system) is monitored by IT staff and failed attempts to access recorded. Automatic controls close systems and revoke access rights upon five failed attempts to access the network. Procedures are in place to enforce the quality of network passwords.
- 5.8 The System Administrator monitors access to the benefit system. Automatic controls close systems and revoke access rights upon three failed attempts to open a service session. In-built controls ensure passwords are changed frequently, are not re-used and conform to quality criteria.
- 5.9 A specialist IT Security Company is employed to undertake 'penetration testing' to test security and access controls and provides advice on enhancements to such controls.

5.10 Control of access to premises

- 5.11 Locked doors, requiring 'swipe cards' for entry, control access to the Benefits section. The Head of Corporate Service assigns rights of entry to those who have legitimate rights of access.
- 5.12 CTV cameras cover all entry points to the building and the foyer area.
- 5.13 The Postroom and mail dispatch area is kept locked while in use and procedures are in place to control the receipt of valuables.
- 5.14 Archived paper files are kept in locked rooms with regulated access.

6.0 Preventative Measures and Processes

The Council has instituted a number of processes and preventative measures to safeguard the benefit system these include:

6.1 Verification Framework

By introducing this framework, claims and claimants are thoroughly checked to ensure only bona fide applications are entertained.

6.2 Royal Mail do-not-redirect

This Royal Mail facility ensures claimants do not move address and continue to receive rent allowance cheques in respect of their former address. Undelivered cheques are returned to our offices.

6.3 Data matching

Data matching exercises under the Housing Benefit Matching Service has been successful in bringing to light overpayments of benefit. We will continue to collaborate in these exercises. The policy for this work is contained in appendix 6.

6.4 Customer information system

A Customer Information System terminal (CIS) provides us with limited access to DWP records. This facility speeds enquiries considerably and provides up to date information.

6.5 Electronic transfer of data

Electronic transfer of Data, this facility is linked with CIS and ensures data from the DWP (NHB documents) is delivered accurately and quickly to us.

6.6 Service level agreements

Service level agreements are maintained with the Pension Service, Job Centre Plus and Rent Officer Service. These are designed to improve performance standards and set targets that are monitored on a regular basis.

6.7 Landlord Register

Details are held electronically. Periodical checks, run against this list, help to validate claims.

6.8 Hotline

This permits members of the public to record their suspicions confidentially on a 24-hour basis. Regular advertisements appear in the press to keep this facility in the public eye.

6.9 Sanctions/Prosecutions Policy

Our policy (Appendix 2) publicly reinforces the Council's determination to use sanctions as a deterrent against benefit fraud.

6.10 Quality Control/Internal audit

Regular random checks (10%) on assessments carried out in the benefit service help maintain accuracy and help identify training needs. They also provide a countermeasure against internal fraud. In addition, internal audit carries out cross checks against pay-roll data and other sources as an internal data-matching exercise.

6.11 Investigation Team

The investigation team is a discreet group independently managed and accommodated away from the main benefit office allowing the group to operate in a confidential environment. Fraud files are kept in locked cabinets. Suitable accommodation is

available for conducting interviews under caution and for the delivery of cautions and administrative penalties.

6.12 Surveillance

From time to time some investigations require covert surveillance; in such cases Human Rights and Data Protection issues come to the fore. All surveillance work will be carried out in accordance with our corporate policy, Home Office code of practice and the Regulation of Investigatory Powers Act 2000 (as amended). Our officers are trained to abide by these rules. Our surveillance policy is contained in appendix 7.

6.13 Joint Investigations

The investigation team enjoys good relations with its colleagues in the Department for Work and Pensions and collaborates with them on a regular basis. Joint investigations will be encouraged.

7.0 Detection

7.1 The Council is committed to maintaining the highest standards of probity. It expects the very highest ethical standards from its Officers and Members in order to protect its good name with the public. It would be unacceptable to ignore potential fraud and procedures are in place whereby staff can raise concerns in confidence without fear of reprisal.

7.2 Procedures and work instructions outline the process to be followed where a fraud is suspected involving claimants and landlords. Benefit staff are trained in these as part of their induction process.

7.3 Where suspicion falls on Officers or Members then in the first instance this is to be reported to one of the following:

- Head of Service
- Monitoring Officer
- Executive
- Chief Executive
- Internal Audit Manager

8.0 Outcomes

8.1 We have set targets to measure the success of our strategy in terms of outcomes. These will be monitored quarterly and reviewed annually to ensure their effectiveness. See appendix 9 for details.

8.2 The Scrutiny Committee will receive progress reports on the work of our investigation team, the sanctions imposed and the amount of overpaid benefit recovered.

Appendix 1 OVERPAYMENT POLICY

1.0 Introduction

East Northamptonshire Council has responsibility for the action taken on Housing Benefit overpayments. This includes deciding whether an overpayment has occurred and whether it is recoverable either as a whole or in part. This discretion includes remitting the amount where appropriate circumstances dictate i.e. ill health etc. We must identify the amount overpaid, the period during which overpayment occurred and decide whether it is legally recoverable. This is done in accordance with current legislation, official guidance and our office procedures (ISO 9001: 2000). Part of this process is to notify the 'person affected' by the overpayment and take recovery action, if appropriate. Care must be taken to correctly classify the overpayment, so that the correct rate of subsidy can be claimed. The Council is committed to recover overpaid Housing Benefit wherever possible.

2.0 Council policy

This document supports the Council's corporate outcomes through the Housing and Council tax Benefit Service plan as follows:

- Good quality of life
- Good value for money
- High quality service delivery
- Effective partnership working.

3.0 Administration

This policy will be administered in accordance with the guidance issued by the Department for Work and Pensions (DWP) on debt management. All decisions in respect of overpayments and their classification will accord with current legislation, DWP guidance and our own procedures and work instructions.

4.0 Definition

Overpayments are amounts of benefit which have been paid but to which there is no entitlement under the regulations.

Overpayments occur where benefit entitlement is revised.

5.0 Establishing the cause

The cause of an overpayment will be established in order to:

- Decide whether or not it is wholly or partially recoverable. Non recoverable amounts will be certified by authorised officers. Generally speaking, all overpayments are recoverable except where they are due to official error. If an official error has occurred and we are satisfied that the claimant/landlord has not contributed to that error and could not

reasonably be expected to be aware that benefit has been overpaid, the overpayment is classed as non-recoverable.

- Correctly notify the claimant, the person we are seeking to recover from (if not the claimant), and any other person affected.

Note: In cases of direct payment to landlords; we will seek recovery from the tenant where this is more appropriate. We will never require repayment from a landlord who has exposed the suspected fraud (Reg. 101).

- Claim the correct amount of subsidy.

A ten per cent quality check will be carried out on all overpayments to ensure these are classified and calculated correctly.

6.0 Recovery Procedure

The council has adopted a 'firm but fair' policy towards the collection of outstanding debts. Debtors will be given every opportunity to reach a satisfactory arrangement for the repayment of their debts.

The process for recovering overpaid Housing Benefit (if recoverable) is:

- An invoice will be raised and sent to the claimant and/or landlord informing them that an overpayment has occurred. This will be issued the day after the overpayment is raised. A decision notice will also be enclosed to explain why an overpayment has occurred. Details of the appeal procedure will accompany these documents.
- Four weeks after the calculation of the overpayment, if the claimant is receiving benefit, an on-going deduction will be made from that benefit. Such deduction to be in line with DWP guidelines.
- If no response is received a reminder notice will be issued 14 days after the invoice is issued.
- If no response is received after a further 14 days a 'Seven Day Letter' will be issued.
- Following issue of the "Seven Day Letter", if no response is received within 14 days a further letter will be issued stating that if contact is not made within 10 days, details of the overpayment will be forwarded to the County Court. A 2nd Solicitor's letter will be issued after a further 10 days has expired, where no response has been received.
- At the expiring of this period, consideration will be given to the issue of a county court judgement where this is appropriate and no agreement to repay has been reached.

Priority for the collection of overpayments will be given to those where there is also a sanction being imposed.

Target:

We aim to despatch an invoice for the overpaid Benefit the next working day after the overpayment is calculated. The recovery timetable (shown above) follows on from this date if payment is not forthcoming.

We aim to collect 50% of the overpayment in the financial year in which the debt was raised. Subsequently, we will raise this to in excess of 70% in following years.

7.0 Other forms of recovery

If the debtor makes contact at any point during the recovery process a suitable repayment plan can be negotiated. The repayment plan will be tailored to the individual circumstances of the claimant but in general, a target of repayment within one year will be sought. Either the Senior Benefit Officer or Benefit Manager must approve plans extending beyond this time scale.

Where a claimant continues to receive Housing Benefit an ongoing deduction can be made from that benefit. Recovery will be at the appropriate rate laid down by the Department of Work and Pensions (DWP).

Where claimants are in receipt of certain other prescribed benefits e.g. Income Support, Attendance Allowance, Invalid Care Allowance, Mobility Allowance or State Pension an application will be made to DWP for a deduction to be made directly from that benefit.

All credits on a council tax account will be checked to see if there is an outstanding overpayment. If so, permission will be sought from the claimant to transfer the credit.

Where judgement has been obtained but the defendant has not paid the debt, one or more of the following actions will be considered: Oral examination, Attachment of earnings, Garnishee and Charging Order or Warrant of Execution. In the case of a 'blameless' tenant deduction will be from the landlord.

If the tenant moves to a new area and continues to receive housing benefit, a request will be made to the Council for that area to make a deduction from the benefit.

8.0 Accounts to be written off

At intervals of not more than three months, progress on recovering debts will be reviewed by the Senior Benefits Officer. Where it is apparent the debt is irrecoverable and all means of collection exhausted, then the debt will be submitted for write off. However, if the customer subsequently qualifies for benefit then the debt will be reinstated and recovery recommenced.

- 1) Amounts of less than £1500 will be authorised by the Benefit Manager.
- 2) Amounts over £1500 shall be authorised by the Executive Director.

9.0 Bankruptcy

Where bankruptcy proceedings have been commenced a claim will be lodged in accordance with the Insolvency Act 1986.

Once acknowledgement of our claim is received from the Official Receiver, if he has indicated a dividend will not be paid the debt will be written-off.

10.0 Tracing Absconders

We will use all legal means available to trace the forwarding address of a claimant, including contacting their landlord, the benefits agency and checking the customer information system (CIS).

11.0 Performance Management

A quarterly review of the percentage recovered will be undertaken to measure the effectiveness of these measures against targets set in the performance framework.

12.0 Strategy for continuous improvement

The Council recognises the need for continuous improvement in its services. In order to see this process working in the recovery of our overpaid benefits, we will adopt the following strategy:

We will use our monthly performance monitoring systems to maintain and inform an overview of the success of our collection procedures and then tailor our actions to responding to the changing dynamics of the environment in which we are operating.

We accept that improved performance will not always be determined by purely increased collection rates but should be judged in the broader context of enabling other criteria, such as promoting key Council priorities (including our 'firm but fair' collection policies).

Appendix 2 Sanctions/Prosecution Policy

1.0 Introduction

This document sets out the Council's approach towards dealing with benefit fraud once it has been established. It should be read in conjunction with the Council's Enforcement Protocol. A number of sanctions are open to Councils including Cautions, Penalties and Prosecutions. Authorities can prosecute for offences under the Social Security Administration Act 1992 when a claimant makes a false declaration in order to obtain benefit. A prosecution can also be made under the Act if someone has signed a false declaration, while benefit was in payment, indicating that there has been no change in circumstances.

2.0 Purpose

Deterrence is the cornerstone of this policy. The message should be clear 'Benefit fraud is theft'. Where fraud is proven, an appropriate sanction will hopefully dissuade the offender re-offending. By publicising successful prosecutions a firm message is sent to all who might attempt the same thing.

3.0 Fraud defined

Fraud is defined as the use of deception or misrepresentation of records or facts to obtain a material/financial gain or some similar advantage. This would normally relate to the organisation's assets, income, expenditure or other interests.

4.0 Legislative powers

The Theft Acts of 1968 and 1978, the Fraud Act 2006 together with the Social Security Administration Act 1992 provides the legal framework under which prosecutions can be brought.

5.0 Imposing sanctions – Guidelines

Each case will be determined having regard to its individual circumstances; the criteria set out in section 7 overleaf will be used to assist this process. Where it is determined a sanction should be imposed, the appropriate one will be determined having regard to the following guidance:

When imposing a sanction regard must be had to the 'test of rationality' to ensure a sanction is not imposed which is greater than any sentence a court might impose.

5.1 Formal Cautions

A formal caution, properly administered leaves the defendant with a strong message that they have done wrong, but that they will not be prosecuted this time. It lends weight to the proceedings and is best employed where the amount involved is not sufficient to warrant the cost of a prosecution. Proven frauds involving theft of relatively small amounts of benefit (less than we would prosecute for) could be properly dispensed with in this way.

Note: Offenders must admit to the offence under an IUC before a formal caution can be offered.

5.2 Administrative Penalties

Where an offence has been accepted but the amount is still relatively small (i.e. less than we would normally prosecute for), a penalty of 30% of the amount of the overpaid benefit could be offered instead of prosecution. This could be used were the defendant has offended for the first time. If the claimant refuses to accept the penalty then the Council must prosecute.

5.3 Prosecutions

The Local Government Act 1972 (Section 222) gives authorities the right to prosecute or appear in any legal proceedings. The costs of bringing a case to court mean that frauds of less than £2,000 should not be prosecuted unless there are special circumstances. Above this figure (subject to the considerations outlined in paragraph 7 below) if there is sufficient evidence to make a conviction likely then a prosecution should proceed.

6.0 Sufficiency of evidence

No prosecution will be commenced unless the Council is satisfied the evidence is sufficient, admissible and reliable. There must be a realistic prospect of conviction having regard to the full circumstances of the case. This will form the evidential test.

7.0 Sanction criteria - Guidance notes

The conclusion of an investigation may result in a Fraud being established. In such cases consideration will be influenced by the factors below in deciding what sanction is appropriate. Where the case involves joint working with the Department for Work and Pensions (DWP), due regard will also be had to their policy.

- 1) The seriousness of the offence and the number of times the offence has been previously committed.
- 2) The amount of the money defrauded and duration the fraud was perpetrated. Small amounts, unless persistent, may not be economical to prosecute.
- 3) The claimant's physical and mental condition.
- 4) The claimant's social factors e.g. Age, Family Circumstances or Language difficulties.
- 5) The defendant's previous record of offences.
- 6) Whether there was collusion or premeditated intent.
- 7) Conformity to legislative requirements of both documentary evidence and manner of enquiries undertaken.
- 8) The claimant's voluntarily disclosure of the fraud prior to investigation.

9) Whether proceedings are within any time limits set for prosecution.

10) Any extenuating factors pertinent to the case.

8.0 Penalty

The Social Security Administration (Fraud) Act 1997 allows the Council discretion to offer an Administrative Penalty (equivalent to 30% of the fraudulent overpayment) in place of prosecution. A penalty can only be offered to an offender, as an alternative to prosecution, if there are sufficient grounds for a prosecution. If the Offender refuses the offer of a fixed penalty the Council must then prosecute. After receiving the recommendations of the fraud team, the Head of Service shall decide if a penalty is more appropriate having regard to the individual circumstances of the case.

9.0 Procedure

Each case will be reviewed once all enquiries have been completed; the Senior Benefit Officer (Fraud & Overpayments) will carry this out and a recommendation made as to which sanction is appropriate to the case.

The Benefit Manager will then consider the recommendation and authorise the appropriate sanction. If prosecution is to proceed, the Benefit Manager will decide whether to refer the case for prosecution by the DWP, the Police, a Solicitor or, by the Council.

If referred to the DWP or the Police, the decision to prosecute will thereafter rest with those authorities who will decide each case on its own merits and may decide that a caution is more appropriate than a prosecution. Liaison with the DWP will be maintained as this is crucial to ensure a common approach in cases where legal proceedings are being considered.

Decisions to prosecute must be fair and consistent. It is recognised that a decision to prosecute is a serious step.

10.0 Recovery of Overpayment

In addition to considering prosecution or penalty, the Council will also seek to recover the full fraudulent overpayment in accordance with its Overpayment Policy. Where prosecution has taken place a claim for compensation will be made towards the overpayment and the remainder will be sought through civil action as appropriate which may include a Charge being placed on the claimant's assets. If relevant the powers contained within the Proceeds of Crime Act 2002 (Asset Confiscation) will be used.

11.0 Recovery of costs

The Council will always seek to recover any costs incurred in pursuing prosecution.

12.0 Loss of Benefit Provisions (One Strike)

From 1 April 2010, a new four week loss or reduction of benefit sanction 'One Strike' has been introduced. One Strike sanctions apply to benefit fraud offences committed on or after 1 April 2010 that result in a caution, administrative penalty or prosecution. One Strike can only be applied to certain benefits and will be determined by the Department for Works and Pension, it will result in a loss of between 20 and 40% of benefit.

12.1 Loss of Benefit Provisions (Two Strikes)

Where a prosecution is successful details will be passed to the appropriate team within the Department for Work and Pensions. Where a claimant has been convicted twice of benefit fraud and meets certain criteria then he/she will suffer a reduction in benefit (between 20 and 40%) for a period of time. This is to deter repeat offenders.

Appendix 3 Code of Conduct for Benefit Administration, Visiting and Investigating Officers

1.0 Aims

It is important that the public has faith in the integrity of the Benefit staff. It is the responsibility of each officer to see this is maintained.

The Code aims to identify the minimum standards of professional conduct required of Benefit staff and to ensure officers adopt a uniform approach in their dealings with colleagues and the public. It is the duty of management to maintain this code and ensure staff understand and comply with it.

2.0 General Principles

Officers must abide by the Counter Fraud Strategy, Prosecution Policy and this Code of Conduct. In addition, the Council's Confidential reporting code provides protection to staff reporting suspected internal fraud.

In addition, the Code should be read in conjunction with the officer code of conduct contained in the Council's constitution, written procedures, work instructions, conditions of employment and legal requirements.

Throughout an investigation the codes of practice attached to the Police and Criminal Evidence Act 1984 (PACE) and the Criminal Procedure and Investigations Act 1996 will be followed.

The relevant provisions of the European Convention on Human Rights and the Human Rights Act 1998 will be adhered to at all times.

The code applies to all Benefit staff both during and outside working hours and will be applied in a reasonable and objective manner.

Every officer concerned with the administration of Benefits must report any suspicions of fraud they detect using the appropriate (referral) form. Any suspicion of internal fraud must be reported to the Head of Service or the Finance Officer.

Every investigator is under a duty to investigate suspected benefit fraud thoroughly and to pursue all reasonable lines of inquiry.

Officers must at all times operate within the law and comply promptly with any legal obligations or departmental instruction.

Officers must not abuse their authority. They must not act, or imply that they could act, in a way which is beyond the actual limits of their powers.

Investigators must act openly and with complete impartiality in their investigations and treat members of the public and colleagues with courtesy, respect and consideration. They must never engage in, or condone, any form of harassment, victimisation or discrimination.

Enthusiasm must not be allowed to override practical Health and Safety requirements, particularly with regard to instructions concerning visiting and interviewing in potentially violent situations. Prior to commencing an investigation an officer shall check if the case is identified as 'sensitive', in which case two officers must be present at any interviews.

All information of a personal nature is subject to the Data Protection Act 1998 and is highly confidential. Any unauthorised disclosure by officers will result in disciplinary procedures and could result in prosecution.

3.0 Specific circumstances

Visiting Premises

When visiting the premises of distressed or agitated people, officers will proceed with care. Officers must adhere to the Potentially Violent Persons protocol and where necessary two officers will make the visit.

When making an announced visit, claimants will be invited to have a friend with them.

Officers will always introduce themselves and produce their identification cards. Where the claimant is partially sighted, the officer shall use their alternative large print identification card.

3.1 Vulnerable people

If visiting elderly people unannounced, visits will be made during hours of daylight and usually between 9.00am and 5.00pm.

An interpreter will be provided when interviewing people unable to speak English.

Where claimants are known to have learning difficulties or mental health problems visits must first be authorised by the Senior Benefit Officer who is responsible for ensuring appropriate assistance/facilities are available to assist the claimant.

4.0 Declarations of Interest

All Council officers are required to make a declaration of interest (to the Council's Monitoring Officer) where a conflict of interest may arise between an officer's private circumstances and his/her official duties.

In addition, where this extends to any of the circumstances listed below, it is an employee's responsibility to bring such a declaration to the notice of the Head of Customer and Community Services and Chief Finance Officer. The circumstances are:

Receiving Housing Benefit or Council Tax Benefit

Acting as a landlord or agent.

When sharing a household with a landlord, agent or anyone who is claiming Housing or Council Tax Benefit.

The officer concerned must not be involved in the assessment or consideration of that claim. Any employee with a relative claiming benefit must not be involved in the assessment, consideration or investigation of that claim. In this respect relative means father, mother, sister, brother, son, daughter, aunt, uncle, niece, nephew, cousin or any other close relative. They must disclose this relationship immediately.

An officer with membership of any organisation, which is capable of influencing the outcome of an investigation, must declare their interest to the Chief Finance Officer and to the Head of Customer and Community Services.

If an officer is suspected or found guilty of benefit fraud they must immediately disclose this.

When disclosing information, officers must ensure the disclosure would not breach the Data Protection Act 1998.

A breach of this code of conduct will be considered a disciplinary matter.

Records of declarations will be held by the Monitoring Officer.

Appendix 4 Terms of Reference - Benefit Counter Fraud Section

1.0 Aims

The investigation section has been established to detect and deter the theft of public money from the Housing Benefit and Council Tax benefit systems. To promote and raise the profile of the benefit anti-fraud work undertaken by East Northamptonshire Council.

To assist in achieving this we will work closely with the DWP and any other relevant body associated with fraud prevention.

2.0 Strategy

The Benefit Anti-Fraud Strategy has been devised to create the framework within which the work of the section will proceed. This is supported by the prosecution policy, code of conduct, terms of reference, written procedures and work instructions.

3.0 Role

The role of the designated investigation officer is to conduct an investigation to sufficient depth to enable a reliable decision to be reached as to whether a fraud has been committed or not.

An investigation may consist of any or all of the following facets: direct or indirect enquiries, the conduct of interviews (including those under caution), the taking of factual statements, copying records, business inspections, surveillance and liaison with other agencies. Each investigation will be conducted within the guidelines set by the code of conduct.

An Authorised Officer will strengthen the team by having powers of entry into places of employment, to examine records conduct interviews and request information.

4.0 Membership

The team consists of two officers designated for the purpose of conducting investigations; one is also designated as an Authorised Officer under the Social Security Fraud Act 2001.

Two Visiting Officer/Assessment Officers have a dual role but, nevertheless are designated officers.

The team is managed by the Senior Benefit Officer (Fraud and Overpayment).

5.0 Responsibilities

Each member of the team has responsibility for applying due diligence and care in the conduct of their investigations; to ensure the reliability and accuracy of material evidence gathered. To ensure each investigation is conducted in an unbiased manner, free of any preconceived ideas; maintaining at all times an impartial approach.

6.0 Expectations

The Senior Benefit Officer will annually create an 'Anti-Fraud Operations Plan' which is proactive in approach, but blending innovative new thinking with plans based on past experience and results.

The success of the team will be judged by the outcomes the team delivers and its ability to meet team targets.

Each member will be encouraged to achieve their individual targets as a team player in their role in implementing the annual 'Anti-Fraud Operations Strategy'.

Appendix 5 Reference Request

East Northamptonshire Council Reference Request

Name of Applicant:

The above has applied for a position within East Northamptonshire Council and has supplied your name as a referee.

I would be grateful if you would answer the following questions. All information will be treated in the strictest confidence.

Please note: A professional reference is only acceptable when the referee is not related to the applicant.

(Please Return In the Postage Paid Envelope Provided)

For Completion by Referee

A. Dates employed by you? *From* *To*

In what capacity did you know the applicant?

.....

In your opinion is the applicant:

Conscientious?	Yes / No
Reliable?	Yes / No
Able to enjoy good working relations within a team?	Yes / No
Able to communicate effectively with both public and colleagues?	Yes / No
Punctual?	Yes / No
Able to work under pressure?	Yes / No
Computer literate?	Yes / No

If you have answered No to any of the above, please comment:

.....
.....
.....
.....

Have you ever had reason to doubt the applicant's honesty/integrity? Yes / No

B. Please state the amount of sick leave the applicant has had during the last two years of your employ.

Year 1 days sick leave	Over how many occasions?
Year 2 days sick leave	Over how many occasions?

To the best of your knowledge is the applicant in good health Yes / No

If applicable please give reason for any long term sickness (i.e. over 3 weeks continuous duration)

.....

C. How, in your employment, did the applicant perform his/her duties?
(Delete as applicable) *Very satisfactory / satisfactory / adequate / poor / very poor*

Would you employ the applicant again?
(Delete as applicable) *Yes / No / Not our policy*

Would you have considered the applicant suitable for future promotion?
(Delete as applicable) *Yes / No / Unable to comment*

A Job Description of the post applied for is enclosed. Please comment below as to how you feel the applicant's skills, qualities and experience might serve in this post.

.....
.....
.....
.....
.....
.....
.....
.....
.....

(Please feel free to attach another sheet if space is insufficient.)

To the best of your knowledge, has the applicant been subject to disciplinary action? *Yes / No*

Is there any additional information you would like to add?
.....
.....

Would you recommend the applicant? *Yes / No*

Signed: Dated:

Name: Position Held:
(In block capitals)

Council/Company Name:

Daytime telephone number:

Please affix your company stamp (or enclose headed note paper)

Thank you for taking the time to complete this reference

Appendix 6 Data Matching Policy and code of conduct

Data matching is an important means of identifying fraudulent claims for benefit. Every year significant frauds are identified using this means.

1.0 Data Matching defined

Within this policy 'data' refers to personal information such as name, address, date of birth etc., which is held in paper or electronic format. Data matching is the process wherein data from various sources is electronically compared and cross checked in such a way that inconsistencies can be highlighted.

This can be accomplished on a national scale, cross checking such records as council payrolls against benefit data. Inconsistencies are then related back to local authorities for investigation.

An example of the type of inconsistency that can be identified using this means is where a benefit claimant is in receipt of a private pension that they have not declared.

2.0 Where the data comes from

The data used for matching comes from different sources, these include:-

East Northamptonshire Council - which holds data in connection with claims for Housing Benefit and Council Tax Benefit.

The Department for Work and Pensions - which has a number of computer systems, each which containing information relating to benefits and National Insurance contributions.

All councils hold data on their pay-roll systems of salaries, wages and pensions.

3.0 Who matches the data?

There are two main data matching agencies, the Department for Work and Pensions (DWP) and the Audit Commission.

Monthly, relevant information held by the council is passed to the DWP and compared to the national information that they hold. Every two years, data is conveyed to the Audit Commission for their national data matching exercise.

4.0 What we do with the data

Data matching will only identify cases where there appears to be an inconsistency. Data matching agencies forward details of inconsistencies (called referrals) to the appropriate council for further action. The information includes names, addresses and details of the information forming the referral.

Upon receipt of the data, a trained officer compares the referred data with Housing Benefit and Council Tax Benefit records to ensure that the council has not received further information since the date of the match.

If the discrepancy has occurred due to an official error, the error is brought to the attention of the person concerned.

If the referral shows that the claimant may not have declared the correct information, the investigating officer will treat the claim in exactly the same way he would any other referral and conduct an appropriate investigation.

5.0 Security of data

At all times the data is treated as highly confidential. Files are kept in locked cabinets and data is sent via a secure email using GCSX. Officers working on this data are bound by the policies and codes of conduct comprising the Counter Fraud Strategy.

6.0 Staff consultation

If data being compared includes the personal data of Council staff, then prior to the commencement of the data match, staff representatives will be consulted and all staff notified by memorandum.

7.0 Principles of Data Protection and Human Rights

At all times the rights and responsibilities laid down in legislation pertaining to the rights of the individual and data protection will be observed and all staff are bound by this requirement.

In particular the following requirements must be observed:-

8.0 Data Protection Act 1998

Data will be held in accordance with the principles of the Data Protection Act 1998 (Schedule 1, part 1).

European Convention on Human Rights

Article 8 of the European convention on Human Rights states:

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

9.0 Outcome of the exercise

At the end of the exercise, any case which has been found to have been fraudulent will be dealt with in accordance with the policies contained within the Counter Fraud Strategy.

1.0 Introduction

- 1.1** The purpose of this policy is to ensure that the investigatory powers given to the Council under the Regulation of Investigatory Powers Act 2000 are used strictly in accordance with the Human Rights Act. The policy contributes to the following corporate outcomes:
- Good reputation with customers and regulators
 - Effective management
 - Members and staff with the right knowledge, skills and behaviours.
- 1.2** Article 8 of the Human Rights Act protects an individual's rights to privacy. If there has been an intrusion into an individual's rights it must be clearly shown this was necessary to prevent or detect crime. Article 6 provides for the right to a fair trial, and evidence must have been gathered in accordance with the law.
- 1.3** Covert surveillance (which for the purpose of this policy includes accessing communications data) should not be undertaken unless it is necessary and proportionate to the alleged offence and been authorised by the appropriate officer.
- 1.4** An authorisation made by an officer named in **Appendix A** provides lawful authority for the Council to carry out covert surveillance **only for the prevention or detection of crime** but it is considered to be a power of last resort and to be used only after all other avenues have been explored
- 1.5** Covert surveillance falls into two categories, *directed* and *intrusive* surveillance. Intrusive surveillance is **not** available to local authorities and such use would be **ultra vires**.
- 1.6** This policy applies to *Directed Surveillance* and the use of *Covert Human Intelligence Sources* (within this policy collectively referred to as surveillance). However, CHIS will **not** be used in benefit investigations. Whilst it is unlikely that other Service areas will use them, this Policy highlights – in Section 10, the essential provisions which need to be observed.
- 1.7** The Council will only use surveillance where it judges such use to be proportionate (see box on page 32).
- 1.8** Before authorising surveillance, authorising officers will take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (collateral intrusion). Measures will be taken wherever practicable to avoid collateral intrusion.
- 1.9** In relation to benefit fraud, this policy must be read in conjunction with benefit fraud circular F4/2003. In all covert surveillance cases, the policy must be read in conjunction with the Home Office Code of Practice (a copy of which accompanies this Policy).

1.10 This policy together with the Home Office Code of Practice is available for public inspection in the Reception areas at East Northamptonshire House, Thrapston, The Rushden Centre, and the TIC, Oundle, and can be accessed on the Council's website by using the link - <http://www.east-northamptonshire.gov.uk/covertsurveillancepolicy>.

2.0 Interpretation

2.1 For the purpose of this Policy:

Authorising officer means:

An officer who is designated as an officer responsible for authorising surveillance within the meaning of the Act.

The Act means:

The Regulation of Investigatory Powers Act 2000

Collateral Intrusion means:

Surveillance which indirectly intrudes into the privacy of anyone who is not the direct subject of the surveillance. This could be innocent bystanders, work colleagues, the children of the surveillance subject.

Confidential Information means:

Matters subject to legal privilege, confidential personal information or confidential journalistic information.

Where this type of information could possibly be acquired, the responsible person for authorising will be the Chief Executive, or in his absence, the appropriate Executive Director, in consultation with the Leader of the Council (or in his absence the Deputy Leader).

Covert Surveillance means:

Surveillance carried out in a manner calculated to ensure that those persons subject to the surveillance are unaware that it is or may be taking place.

Covert Human Intelligence Source (CHIS) means:

The use of a person to obtain or access private information **covertly** by establishing or maintaining a personal or other relationship with a suspect. The Act refers to persons being asked, induced or assisted to provide such private information (see definition on page 6). CHIS include agents, informants or officers working under cover.

CHIS does not apply to members of the public providing information out of public duty (without expectation of reward or payment) and who have information that is received by them in the normal course of their life.

Directed Surveillance means:

Surveillance which is covert, but not intrusive and undertaken:

- a) For the purpose of a specific investigation;
- b) In such a manner as is likely to result in obtaining private information about a person.

Private information in relation to a person includes any information relating to his private or family life.

Intrusive surveillance means:

Surveillance carried out in relation to anything taking place on residential premises or in any private vehicle; it involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

Note: Local authorities are not authorised to carry out intrusive surveillance.

Communications data means:

Information held by communication service providers (eg telecom, internet and postal companies - *csp s*) relating to the communications made by their customers, but **not the contents of the communications themselves.**

Necessary

To justify the intrusion surveillance will cause into an individual's rights the Authorising Officer must be satisfied that it is necessary for the reason specified on the application form headed **Authorisation** (For the purpose of preventing or detecting crime or of preventing disorder) given the circumstances of the particular case.

Proportionality

The activity must be proportionate to the likely outcome. This entails striking a balance between the intrusiveness of the activity on surveillance subjects and others likely to be effected against, the proposed activity, the circumstances of the case and the need for the activity.

For example, the activity would not be proportional if there was an alternative way of obtaining the information.

Basically, we should not be taking a hammer to crack a nut!

Private information

Is defined in s26 (9) of the Act as that in relation to a person and includes any information relating to his private life.

If observations will not result in obtaining of private information about a person, then it is outside the RIPA framework.

Subject(s) means:

An individual or group of individuals in respect of whom surveillance has been authorised, and such observed contacts of that individual or group of individuals as come to notice during the course of the authorised surveillance.

3.0 Pre surveillance visit and planning process

- 3.1** For the purposes of planning surveillance an investigator should visit the proposed location **once** to plan the surveillance.
- 3.2** The investigator will need to demonstrate both the necessity and proportionality of the permission sought.
- 3.3** Suitable background checks should be made from computer systems and other agencies where a legal gateway exists to exchange information.
- 3.4** The planning process must include identifying where observations will take place; how surveillance will be conducted and recorded (i.e. camera, visual observations with notes taken etc.); what resources are needed; whether the subject will be followed and over what distance; the duration of the surveillance.
- 3.5** Most importantly, the plan must identify any collateral intrusion and set out how this will be kept to a minimum.

4.0 Unforeseen circumstances

- 4.1** Directed surveillance does not include covert surveillance carried out as an immediate response to events or circumstances which, by their nature, could not be foreseen.
- 4.2** Investigators witnessing an offence during the course of their normal duties should record as soon as possible their observations and make a referral in the normal way.
- 4.3** Where it is vital that surveillance should be continued, urgent oral authorisation (see paragraph 5.6) must be sought.

5.0 Authorisation procedures

Written authorisations

- 5.1** No surveillance falling under the provisions of RIPA shall take place without authorisation by the Authorising Officer.
- 5.2** Wherever possible authorisation shall be in writing.

5.3 Before giving authorisations for surveillance, the authorising officer must give individual attention to each case and be satisfied that:

- (1) The surveillance is necessary and that there is no other way of providing the evidence.
- (2) The test of proportionality has been undertaken.
- (3) Measures are to be taken to avoid or minimise collateral damage.
- (4) Surveillance has been properly planned in all its aspects including (3) above and that: the location of observations has been properly identified; that the method of surveillance is identified; the period (both dates and timings) over which surveillance is to take place has been stated.

5.4 Authorisations will be endorsed on the **Authorisation** application form and a copy returned to the investigator via the appropriate line manager (in the case of benefits, this is the Senior Benefit Officer). Original documentation will be retained in accordance with paragraphs 8 & 9. Alternatively, if authorisation is refused this, together with reasons, will be shown on the **Authorisation** form.

5.5 In urgent cases, oral authority can be given as outlined in 5.6.

Oral authorisations

5.6 In extreme cases where delay would damage the investigation, oral authorisation may be given. However, the same considerations must be applied and great care taken before authorisation is given.

5.7 The Authorising officer shall record the authorisation in the Surveillance file and make a record on the control matrix.

5.8 The investigator will record the authorisation in a QB50 notebook.

Access to Communications Data

5.9 Requests for access to, and disclosure of, communications data may only be made via the Council's Accredited Officer or Single Point of Contact (SPOC).

5.10 The SPOC will ensure that officers designated in the Council's scheme of delegation have applied tests of necessity and proportionality and the risk of collateral intrusion has been taken fully into account (see paragraph 1.8).

5.11 This policy must be read in conjunction with the Regulation of Investigatory Powers (Communications Data) Order 2003 and Home Office Code of Practice (a copy of which accompanies this Policy).

6.0 Duration of authorisations

- 6.1 Once authorised, surveillance will normally start immediately and in the case of Benefit cases, must begin within 10 days. In the event that circumstances delay this, the reasons for delay must be documented on the investigation file to show there has been no unreasonable delay.
- 6.2 Written authorisations last for three months beginning with the day on which they took effect and may be renewed at intervals of not longer than three months.
- 6.3 Urgent oral authorisations last for seventy-two hours from the time they were given.

7.0 Review of authorisations

- 7.1 The Authorising Officer will undertake a review at monthly intervals during the duration of surveillance (or shorter period if the circumstances of the particular surveillance justify). Authority to continue may be withdrawn as a result of the review if the activity fails to meet expectations.

8.0 Changes of circumstance

- 8.1 In the event a change of circumstance occurs the investigating officer shall advise the Authorising Officer (using the **Review form**) within seventy two hours of becoming aware of the change.
- 8.2 Surveillance activity cannot commence in respect of the changed circumstances unless authorised.
- 8.3 The Authorising Officer shall reconsider if surveillance remains appropriate once again using the criteria employed in 5.0 above.
- 8.4 If authorised to continue, the Authorising Officer shall complete the **Review form**; otherwise, cancellation will be given orally followed by completion of the **Cancellation form**, setting out reasons for cancellation.

9.0 Cancellation of Surveillance

- 9.1 When surveillance operations have been completed, the Authorised Officer will cancel authorisations and they will not be allowed to expire automatically at the end of the three month (or 72 hour) period referred to in 6.0 above.

10.0 Covert Human Intelligence Sources (CHIS)

10.1 Whilst it is unlikely that Service areas will use CHIS (for Benefit investigations, there is a clear policy **not** to use them) it is recognized that a member of the public, or a Council Officer, might fulfill the role of a CHIS even though they have not been *specifically* asked to use a relationship for covert purposes. It is essential that the following provisions are observed. This is supplemented by the Home Office Code of Practice which accompanies this Policy:

<http://www.east-northamptonshire.gov.uk/homeofficecodeofpractice>

- A named officer (ie a “Handler”) will have day to day responsibility for dealing with the CHIS. That officer will –
 - fully recognize the Council has a duty of care to the CHIS, whose security, safety and welfare is paramount.
 - Undertake a risk assessment prior to the use of the CHIS to determine the risk to them and the likely consequences should their role become known.
 - Take fully into account, at the outset, whether there will be ongoing security and welfare considerations related to the Source, once the authorisation has been cancelled, and
 - Maintain a record of the use made of the CHIS, and regulate access to them, ensuring that the Regulation of Investigatory Powers (Source Records) Regulations 2000 are fully complied with
- A further named officer will have general oversight of the use made of the CHIS (ie a “Controller”).

10.2 Officers conducting investigations shall clearly establish whether persons assisting the Council might fulfill the role of a CHIS. Possible examples are –

- The use of professional witnesses
- “Entrapment cases” – pretending to be a customer.

10.3 Only the Chief Executive (or his absence, an Executive Director), has the power to authorise a CHIS – following consultation with the Leader of the Council or in his absence the Deputy Leader - where it involves a vulnerable person or a juvenile, or where surveillance involves communications subject to legal privilege, confidential personal information or confidential journalistic material.

11.0 Record of authorisations

11.1 A record of all surveillance authorisations (including refusals) together with review documents shall be maintained by the Authorised Officer.

11.2 In addition, the Authorising Officer shall maintain a matrix controlling the authorisations, extensions, reviews and cancellations.

11.3 The Council's Democratic Services Manager shall hold a central, computerised, register with details of all authorizations and applications for access to communications data. Such records shall be available for inspection by officials from the Office of the Surveillance Commissioner and, for communications data, the Interception Commissioner. The central register shall contain the following information:-

- The type and date of authorisation
- The name and rank/grade of the authorising officer
- A unique reference number for the investigation or operation
- The title of the investigation/operation, and a brief description of the subjects, if known
- If the urgency provisions were used, and why
- If "self-authorisation" applies
- If an authorisation is renewed, when and the name and rank of the authorising officer
- If confidential information is likely to be a consequence of the investigation or operation
- The date the authorisation was cancelled

11.4 Authorising officers shall ensure that the Democratic Services Manager is provided with the required information to maintain the central register.

12.0 Quality Assurance

12.1 The Council's Democratic Services Manager and Solicitor to the Council shall jointly be responsible for internal quality assurance. This entails checking that all applications and authorisations have been satisfactorily completed in accordance with the appropriate Code of Practice, that there are subsequent timely reviews, renewals and cancellations, and that the process has regard to the critical areas identified by reports issued from time to time by the Office of the Surveillance Commissioner.

13.0 Retention of material and security

13.1 Where there is reasonable belief that material relating to any surveillance could be relevant to pending or future criminal or civil proceedings, it should be preserved in accordance with the requirements, where appropriate, of the Criminal Procedure and Investigations Act 1996 and other relevant legislation.

13.2 Where surveillance has ceased or where surveillance has concluded and the material obtained is longer required, it shall be destroyed immediately.

13.3 Authorisations will be destroyed as confidential material. Central records will be destroyed after three years of the ending of authorisation. Counter fraud records shall be destroyed after five years provided the record is no longer required as evidence in support of legal action.

13.4 All material relating to surveillance and requests for access to communications data shall be kept securely.

14.0 Complaints procedure

- 14.1** The Council shall maintain the standards set out in this Policy.
- 14.2** Any complaint arising out of investigatory work shall be dealt with in accordance with the Council's Comments, Complaints and Compliments Procedure:
<http://www.east-northamptonshire.gov.uk/commentscomplimentscomplaints>
- 14.3** If the matter cannot be resolved at a local level the complainant has recourse to the Investigatory Powers Tribunal, PO Box 33220 London SW1H 9ZQ. (020 7273 4514).

AUTHORISING OFFICERS - RIPA

Regulation of Investigatory Powers Act 2000	
To authorise covert surveillance, Covert Human Intelligence Sources and undertake investigations	All subject to the Council's Corporate Policy and appropriate Home Office Codes of Practice.
To authorise requests for access to, and disclosure of Communications data:	Requests for Communications data being channelled through the SPOC (Democratic Services Manager)
Planning	Enforcement Executive Director (BD); Head of Planning Services
Environmental Health (Noise; Licensing; Food Safety; Littering; Dog Control; Flytipping; Refuse; Health & Safety; Abandoned & Nuisance Vehicles)	Executive Director (ML); Head of Environmental Services; Environmental Protection Manager; Commercial Health Manager; Waste Manager
Crime & Disorder - Anti-Social Behaviour	Executive Director (ML); Head of Environmental Services; Commercial Health Manger; Environmental Protection Manager; Waste Manager
Anti Fraud and Corruption Strategy (Benefits)	Executive Director (ML); Head of Customer and Community Services;
Other officers in absence of above -	Solicitor to the Council; Democratic Services Manager
Personnel	Head of Organisational Development
Covert Human Intelligence Authorisations for vulnerable people or juveniles, or where surveillance involves communications subject to legal privilege, confidential personal information or confidential journalistic material.	Chief Executive, or in his absence the appropriate Executive Director (following consultation with the Leader of the Council or in his absence the Deputy Leader)

Appendix 8 Declarations of Interest form

East Northamptonshire Council

Declarations of Personal Interests

The Council Constitution and Code of Conduct for officers' sets out the requirement for staff to declare personal interests financial or non-financial which might conflict with the Council's interests.

We have a Counter Fraud Strategy designed to protect our benefit service. Because all staff employed within the service could come into contact with some aspect of benefit administration, officers are asked to abide by the general principles established in Appendix 3 of the Strategy 'Code of conduct for Benefit administration, Visiting and Investigation Officers'.

To protect staff, a Register of Interests is held by the Monitoring Officer (which is confidential and only accessible by the MO, CX and CFO). For risks relevant to R&B, the Head of Service will hold details. Officers are asked to complete the form below identifying any interests you maintain, which might conflict with the Council's interests. Such items could include positions held on outside bodies (sports clubs etc.), relationships with benefit recipients, ownership of properties, business interests. The list is not exhaustive.

To conform to the Benefit Performance Standards, officers are asked to make 'nil' returns if they have no interests to declare.

If in doubt, please ask your manager. From time to time you will be asked to reconfirm your submission but should your circumstances change please advise us immediately.

Declaration of Personal Interest

Name:..... Post No.....

Nature of personal interest: -
(Please provide details, such as name, address & nature of interest)

.....
.....
.....

Signed: Dated:

You may wish to retain a copy of this form for your records. On completion please forward to the Head of Customer and Community Services.

Monitoring and reviewing progress

Overpaid Housing Benefit			
For the period Apr – Oct 10/11		For the period Apr - Oct 09/10	
Overpayments raised	393,320	Overpayments raised	£216,221
Overpayments recovered	£140,429	Overpayments recovered	£140,600
Income generated from subsidy	£ 77,693	Income generated April 09 – March 10	£ 62,779

Counter Fraud Activity	2010/11	2009/2010
Referrals (a suspected fraud made)	289	360
Referrals not to be pursued	35	60
Closed at risk assessment stage	112	69
Investigative visits made	370	393
Interviews under caution	66	76
Surveillance	0	2
Cases completed following investigation	359	378

Action Plan

Appendix 9

Corporate outcome	Outcome (Insert relevant priority outcomes from the Corporate Plan listed below)	Measure	Frequency (M/Q/HY/A)	Annual Targets			Owner	Key Actions	Resources	Risks
				2010/2011	2011/2012	2012/2013				
Good quality of Life	A secure benefit system	Number of sanctions against fraudulent activity	A	44	45	46	Senior Benefit Officer	Publish successes		Loss of experienced staff
Safer	A secure benefit system	To meet the DWP Performance Standard on Security	A	100%	100%	100%	Benefit Manager	Adopt changes to standard		
Good value for money	Improved recovery of overpayments	Amount of overpayments recovered within 2 years as a % of the debit raised	A	75%	77%	79%	Senior Benefit Officer			Loss of experienced staff
High quality service delivery	Timely investigation	% of investigation	A	100%	100%	100%	Senior Benefit Officer	Maintain staffing levels		Loss of experienced staff
	Of referrals	Processes commenced within 10 working days	A	100 %	100%	100%	Senior Benefit Officer			
Effective partnership working	Closer working with outside agencies	Number of cases jointly investigated each year with the DWP	A	18	18	19	Senior Benefit Officer	Maintain close working relations		Loss of experienced staff