

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

BENEFITS INVESTIGATIONS 1st December 2013 – 31 March 2014

Relevant Portfolio Holder	Councillor John Fisher, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	√
Relevant Head of Service	Amanda De Warr, Head of Customer Access and Financial Support
Wards Affected	All Wards
Ward Councillor Consulted	
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To advise Members on the performance of the Benefits Services Fraud Investigation Service. This report gives performance information for the team from 1st December 2013 and 31st March 2014

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that subject to any comments, the report be noted.

3. KEY ISSUES

Financial Implications

- 3.1 Direct expenditure for the year from 1st April 2013 until 31st March 2014 was in relation to Housing Benefits and Council Tax Support amounted to just under £20m.
- 3.2 The successful investigation of fraud also impacts on overpaid Housing Benefit and excess payments of Council Tax Support. On the files closed during the period of this report, the team identified £52,293.01 in overpaid Housing Benefit and £11,345.70 in excess Council Tax Support.

Legal Implications

- 3.3 There are no specific legal implications.

Service/Operational Implications

- 3.4 The dedicated counter fraud team's purpose is to prevent and deter fraud, in addition to investigating any suspicions of fraudulent activity against the Authority.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

- 3.5 The Benefits Service decides entitlement to Housing Benefit and Council Tax Support. During the period of this report there were 6200 live Housing Benefit claims and 7500 live Council Tax Support claims at any one time.
- 3.6 Just over half of the caseload is made up of people of working age which results in a large number of changes in circumstances when moving in and out of work and also claiming other out of work benefits.
- 3.7 Although measures have been put in place to make this transition easier for customers it remains an area of risk of fraud and error entering the system. As both Housing Benefit and Council Tax Reduction are means tested benefits there are potential financial incentives to under declare income and savings or not to report a partner who is working or may have other income
- 3.8 During the period covered by this report 216 fraud referrals were received by the team.
- 3.9 84 (39%) of these fraud referrals came from data-matching. Of these:
- 2 cases were identified through the 2012/13 National Fraud Initiative (NFI).
 - The remainder were identified through the Housing Benefit Matching Service (HBMS) which is a scheme run nationally for Local Authorities by the Department for Work and Pensions (DWP). Our live benefit caseload is submitted and cross matched on a monthly basis against DWP records relating to nationally paid benefits and private pensions, HMRC records relating to Tax Credits, work or savings as well as Post Office post redirection records.
- 3.10 Data matching continues to be an excellent tool in detecting fraud but some of the data that ours has been matched against will have changed and the matches cannot be taken to be correct without further investigation.
- 3.11 72 (33%) of the referrals were from official sources. Of these:
- 7 were received from the Department for Work and Pensions.
 - 65 were from within Redditch Borough Council (RBC), mainly within the Benefit Team, showing the value of maintaining awareness of benefit fraud with employees, particularly those dealing with benefit claims.
- 3.12 60 (28%) of the fraud referrals received during the period came from members of the public. 80% of these were made by telephone.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

- 3.13 An increase in referrals from members of the public is always experienced following reports of successful prosecutions in the local press giving details of the case and how to report suspicions of benefits fraud. This practice is understood to deter fraud as one of the main concerns of customers, who are being interviewed under caution for benefit fraud offences, is that their names will appear in the local press.
- 3.14 Many fraud referrals relate to benefits paid by both RBC and DWP. In these cases a joint approach is taken to ensure that the full extent of offending is uncovered and the appropriate action is taken by both bodies. This also maximises staffing resources and prevents the possibility of duplicate investigation work.
- 3.15 58 investigations were closed during this period and fraud or error was established in 51 of these cases. Of these:
- 5 customers were prosecuted. 2 of these were for undeclared work and the other 3 for undeclared partners.
 - Cautions were accepted by 12 customers. 9 of these were for undeclared or under-declared work, 1 for an undeclared private pension, 1 for an undeclared partner, and the other for a child becoming non-dependant.
 - 1 Administrative Penalty was accepted during the period. The offence in this case related to undeclared capital and because the overpayment pre-dated the increase to 50% of the amount overpaid introduced under the Welfare Reform Act, the penalty had to be offered at the previous rate of 30%. The practice of considering the customer's full circumstances, including ability to pay a financial penalty when deciding on the appropriate sanction in each case continues to be followed.
 - 46 cases were closed as fraud/error proven with a change to entitlement and/or an overpayment of benefit established.
 - 5 cases were closed as fraud/error proven but with no change to benefit or overpayment. Cases where payment has been prevented are included in this category.
- 3.16 In cases where an overpayment has been identified but where a full investigation is not considered worthwhile, customers are sent a letter reminding them of their duty to report changes in circumstances in order to avoid further overpayments and prevent full investigation and possible sanction on their claim in the future.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

- 3.17 Appendix 2 sets out the numbers of referrals and sources of those referrals per reporting period from April 2011.
- 3.18 The trend indicates a reduction in referrals but this is largely due to changes in the way some are recorded and also the automation of a large number of changes which has reduced the likelihood of changes not being picked up.
- 3.19 Appendix 3 shows comparative fraud data from neighbouring authorities.
- 3.20 Quite a large number of the referrals will not be taken up. This can be for a variety of reasons such as duplicate referrals where an investigation is already taking place, no benefit in payment, the information in the allegation is already correctly declared alleged or would have no effect on the claim.
- 3.21 Cases where the allegation will have no effect on the HB/CTS claim but could impact on DWP benefits or Tax Credits are referred to the appropriate organisation to investigate.
- 3.22 In some cases the initial background enquiries will not establish sufficient intelligence for there to be a reasonable likelihood of proving fraud. The majority of these cases will be passed for a review to be carried out on the claim, usually by visit.
- 3.23 Some of the investigations that are carried out will not establish fraud and our aim is to keep this number to a minimum.
- 3.24 Investigations can also have implications on Council tenancies or other areas of the Council's services. In these cases the Investigation Officers work closely with appropriate Officers in order for all aspects to be covered. Likewise, if the investigation identifies a potential impact for an external service area, the information will be shared.
- 3.25 The timescale for the implementation of the Single Fraud Investigation Service (SFIS), as announced as part of the Government's Welfare Reform plans, has now been released and despite the rest of the county joining in November this year, Redditch and Bromsgrove will not join the organisation until February 2016.
- 3.26 Information has been received and a SFIS road show presentation was held in Birmingham on 15 April 2014 giving high level details regarding the transfer process and the duties that will and will not be moving to the new organisation within DWP.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

- 3.27 The DWP has concluded that TUPE will not apply as the transfer of administrative functions between public administrative authorities is not a relevant transfer (for the purposes of TUPE). However, DWP is committed to taking employees currently assigned to welfare benefit fraud investigation work.
- 3.28 The Cabinet Office Statement of Practice for Staff Transfers in the Public Sector says that in circumstances where TUPE does not apply in strict legal terms to a transfer between different parts of the public sector, the principles of TUPE should be followed so far as possible and in accordance with business need. In order to maintain an effective fraud investigation service DWP has decided to adopt this principle.
- 3.29 Our own Human Resources Team have demonstrated their support to the staff likely to be included in the transfer and their commitment for involvement when negotiation starts approximately 6 months before the given date.
- 3.30 This date has also given the service the opportunity to develop and explore options for the future such as a continuing resource for the investigation of non-welfare fraud including Council Tax Reduction which will remain within local authorities. A shared Investigation Team between Bromsgrove District Council and Redditch Borough Council is in currently in the implementation to make best use of resources and enable informed decisions to be made.

Customer / Equalities and Diversity Implications

- 3.31 A robust mechanism for pursuing Housing Benefit and Council Tax Support Fraud is important to customers who expect to see action taken to reduce fraud and overpayment of benefits.

4. RISK MANAGEMENT

Without adequate performance monitoring arrangements there is a risk that the Benefits Service could lose subsidy and additional costs incurred. In addition, without effective counter fraud activity increased numbers of claims where no or reduced entitlement would remain in payment and add to the service cost.

5. APPENDICES

Appendix 1 – Example cases

Appendix 2 - Number of Referrals by source

Appendix 3 - County investigation and sanction comparison 1 April 2013 to 31 March 2014

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

6. BACKGROUND PAPERS

None

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AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

APPENDIX 1

Example cases

Case 1

A 55 year old woman accepted an administrative penalty as an alternative to prosecution after admitting offences of failing to declare capital.

This investigation was started as a result of a joint working investigation from the DWP who had received information that the customer held over £50,000 in undeclared accounts. The DWP later closed their investigation because the benefits they were paying would not be affected by the capital but the investigation into Housing Benefit and Council Tax Benefit/Support continued.

The customer repaid the overpayments of £3,434.87 Housing Benefit and £391.40 Council Tax Benefit prior to attending an interview under caution where she showed genuine remorse and fully admitted the fraud.

Taking all factors into account, it was considered appropriate to offer a financial penalty as an alternative to prosecution. The penalty was accepted and has been paid in full.

Case 2

A 23 year old woman accepted a caution for failing to declare that her wages had increased shortly after making her application for benefit, resulting in Housing Benefit of £1,212.71 being overpaid.

This case was referred for investigation after electronic notification of a change in Tax Credits was received, indicating that the customer may have increased her working hours. The customer was asked to provide details of the change but failed to do so and the claim was closed and referred for investigation.

Enquiries with the employer identified the undeclared increase in wages and the customer admitted the offences when interviewed under caution.

Case 3

A 45 year old woman was prosecuted for failing to declare that her partner had moved in with her.

This investigation began after suspicion was raised by a member of the public.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

The DWP were invited to join the investigation after sufficient evidence was obtained to indicate that the allegation was true. Overpayments of £9,713.12 Housing Benefit, £1,479.38 Council Tax Benefit and £4,548.50 Income Support were identified.

The customer pleaded guilty to dishonestly claiming benefit and was sentenced to a 12 month community order to include 200 hours unpaid work. She was also ordered to pay £85 towards the prosecution costs and a victim surcharge of £60. The case was prosecuted through the Crown Prosecution Service.

Case 4

Prosecution of a 48 year old man for claiming Housing Benefit for a property that he never moved into was rejected by the Crown Prosecution Service

The investigation into this claim started after the landlord raised suspicion that the claim was incorrectly in payment after receiving post for the customer from Birmingham City Council who also seemed to be investigating him.

The claim was stopped immediately but the customer failed to co-operate with the investigation. Overpayments of Housing Benefit were calculated as £635.14 from Redditch Borough Council and £2,367.72 from Birmingham City Council. The prosecution file was submitted requesting prosecution for all offences but the evidence held was considered insufficient to proceed and therefore the file was closed with no further action.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

APPENDIX 2

Number of Referrals by source

Period ending	Public	Data matching	Official source	Total
March 2014	49	83	46	178
December 2013	56	54	83	186
September 2013	47	62	79	188
June 2013	66	66	74	202
March 2013	46	184	89	312
December 2012	30	216	61	314
September 2012	55	242	83	380
June 2012	76	400	61	534
March 2012	78	231	103	396
December 2011	78	112	101	287
September 2011	79	131	99	309
June 2011	68	113	105	286

The number of referrals received through data-matching peaked in 2012 when the DWP identified cases where there had been no change to earnings and/or tax credits on claims for over 12 months.

The introduction of automated notification of changes to tax credits and DWP benefits has reduced the numbers of claims that would be identified if a current match was run under the same rules.

Benefit assessors are also encouraged to consider whether the change in tax credits is likely to have been triggered by a change in earnings and confirm current income.

This automation has also contributed to the reduction in official source referrals over time because these changes are being identified at the time they are taking place. Changes in DWP policy, mainly their abolition of the use of cautions as an alternative to prosecution has also resulted in a reduction in the numbers of cases DWP colleagues are investigating, meaning fewer joint working invitations being received.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

3rd July 2014

APPENDIX 3

County investigation and sanction comparison 1 April 2013 to 31 March 2014

Description	Number
No. of Investigations closed	
Bromsgrove	68
Malvern Hills	64
Redditch	241
Worcester	132
Wychavon	122
Wyre Forest	283
No. of Cautions accepted	
Bromsgrove	21
Malvern Hills	7
Redditch	35
Worcester	17
Wychavon	12
Wyre Forest	0
No. of Admin Penalties accepted	
Bromsgrove	1
Malvern Hills	2
Redditch	2
Worcester	6
Wychavon	5
Wyre Forest	3
No. of Prosecutions successful	
Bromsgrove	10
Malvern Hills	3
Redditch	17
Worcester	20
Wychavon	11
Wyre Forest	29