



WOKING BOROUGH COUNCIL

HOUSING / COUNCIL TAX BENEFIT ANTI-FRAUD POLICY

Woking Borough Council (the Council) is committed to the delivery of Housing Benefit and Council Tax Benefit to its residents who qualify for help. Benefits are for those who are most financially vulnerable in society and are assessed and paid within Government guidelines and the relevant legislation. The Council is committed to protecting the public purse from fraud and abuse. This policy sets out the framework for achieving this commitment.

Action on Fraudulent Overpayments of Benefit to Claimants.

In some instances, benefits or additional benefits will have been obtained from the Council where there is no entitlement, e.g. due to a change in circumstances. Where this involved premeditation or wilful intent, **the Council will normally prosecute all those involved.** In other cases, there may be no evidence of premeditation, but the offence of "failing to notify a change of circumstances" under sections 111a or 112 of the Social Security Administration Act 1992 (as amended) may have been committed. The Council will then consider the particulars of the individual case. Where the claimant could reasonably have been expected to know that they should have reported the change in circumstances to the Council and did not do so *promptly*, and that the change would have affected their benefit entitlement, the Council will consider prosecuting.

Where appropriate and with reference to the criteria laid down in the Prosecution Policy, the Council will consider the alternatives of a formal caution or the application of a 30% administrative penalty.

In some circumstances, it may not be in the public interest to take action against a person who has made either a false claim or has failed to report a change of circumstances which has resulted in them obtaining benefit to which they were not entitled. This will be determined by the particulars of the individual case and with reference to the criteria laid down in the Prosecution Policy.

In all cases, the Council will seek to recover overpayments. It would not be the Council's intention to cause hardship. Accordingly, the ability to repay the overpayment will be considered in individual cases where hardship would be a proven outcome of pursuance of the debt. Factors such as the nature of the offence and the rate of recovery will be taken into account when determining the arrangements for recovery. In all cases, overpayments will be recovered by the Revenues and Benefits Section.

Action on Fraudulent Overpayments of Benefits to Landlords

Payments of benefit are often made directly to Landlords on behalf of claimants. In some cases, Landlords falsify claims or assist claimants to falsify claims for benefits. **The Council will normally prosecute Landlords who commit an offence under the Social Security Administration Act 1992.**

Landlords who receive benefit directly are obliged to report any known changes in their tenants' circumstances. When a Landlord fails to do this, they may be paid more direct benefit than they have a right. The Council makes Landlords aware of their duty to report known changes and failure to do so is an offence under s.112 of the Social Security Administration Act 1992. Where an offence has been committed, the Council will normally prosecute, any overpaid benefit will be recovered either directly from ongoing payments of benefit to the Landlord or through the Revenues and Benefits Section's recovery procedures.

Where appropriate, the Council will consider the alternatives of a formal caution or the application of a 30% administrative penalty.

The Council will normally prosecute all persons involved in premeditated fraud where there is believed to have been collusion between the Landlord and Tenant(s).

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

Working in Partnership with other organisations

Where appropriate, the Council will work in partnership with other organisations such as the Police, JobCentre Plus, Department of Work and Pensions, HM Revenue and Customs, and Home Office in order to combat benefit fraud and will actively encourage such links for mutual benefit.

Data Protection

The Council will be correctly registered under s.19 of the Data Protection Act 1998.

The Council will only use s109B of the Social Security Administration Act 1992 as a last resort to obtain information about claimants from organisations that hold their personal data required for benefit fraud investigation purposes, e.g. banks, building societies etc. The "Authorised Officer(s)" who comprise the Fraud Team Manager and Fraud Investigator only will use this power.

Where required, the Council will use the Data Protection Act exemption rules in order to protect those organisations that may have information to supply to the Council in its investigation of fraud.

Duties and Consideration of Anti-Fraud Officers

When investigating fraud, council fraud investigators will work within the guidelines of the Police and Criminal Evidence Act 1984 and its Code of Practice, the Regulation of Investigatory Powers Act 2000, and the Criminal Procedures and Investigations Act 1996 and its Code of Practice. The Council's officers will, at all times, apply appropriate procedures to maintain confidentiality.

Duties and Considerations of Council Employees

The Council is committed to controls designed to prevent fraud being perpetrated by their own staff. Therefore, staff employed in the Benefits and Fraud Investigation Teams will be vetted at the time of application. If misrepresentation is found to have occurred on the application form or at the interview, disciplinary procedures will be considered.

The Council will require all Council officers involved in the administration of benefits to report to the Fraud Team Manager details of any property within the Borough that they are renting to tenants and any claims of benefit to which they have some connection. This may be a claim of benefit where the officer is the landlord, the claimant, a partner, dependent or non-dependent on the application. If the Benefits Officer has knowledge of a claim where they are a close family member, as defined in the Housing Benefit and Council Tax Benefit General Regulations, then the officer must report this case to the Fraud Team Manager.

Interest in a benefit claim must be registered with the Fraud Team Manager who will remove "update" rights to those claims via the Academy Benefit system parameters. The details of employee interests will then be passed by the Fraud Team Manager to the Borough Secretary and Solicitor to record in the corporate register of interests.

Gifts and hospitality offered to Council employees as a consequence of their role as an officer involved in the administration of benefits must be reported in accordance with the procedures outlined in the Staff Hand Book.

Any Council officer found to be involved in an offence under the Social Security Administration Act 1992, or any other offence involving claims of benefit either at this Council or any other Council or the Agencies of the Department for Work and Pensions, will be dealt with under the Council's Disciplinary Procedures, in addition to any prosecution proceedings that may be taken.

Where any Council officer investigating a fraud abuses their powers, an investigation will take place in accordance with the Council's internal Disciplinary Procedures, on the conduct of the case.

Duties and Considerations of Elected Members

The Council carries out an annual canvass in April of elected members for "Related Party Disclosures", attached to this will be an additional pro forma requesting details of any benefit claims to which they have some connection within the Borough. This may be a claim of benefit where the Member is the Landlord, the claimant, a partner, dependent or non-dependent on the application.

Interest in a benefit claim will then be passed to the Fraud Team Manager and a

Member's interest indicator placed on the claims.

Benefit Administration and Counter-Fraud Action

The Council believes that it is important to discourage, deter and prevent fraud from taking place in the first instance. The Council will implement rigorous procedures for the verification of claims. The minimum standard for verification will be the guidelines given in the Department for Work and Pensions Verification Guidance.

However, although claims for benefit will be subject to close scrutiny, the Council is committed to being a top quartile performing authority. The Council will give assistance to claimants of benefits in completing and applying for benefit and to maximise take-up.

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

The Council's application form for Housing Benefit/Council Tax Benefit will include questions and instructions in plain language giving the customer clear directions to what is required of them. The form will carry warnings against providing false information and will explain the risks that claimants will run if they choose to misinform the Council of their personal circumstances. The form will contain all the information the claimant will require to understand their rights.

In Summary

The Council is committed to ensuring that people should receive all the benefits to which they are entitled.

The Council will act against those people who knowingly seek to obtain benefits to which they are not entitled.

The Council will endeavour to recover in full any benefit obtained to which a claimant is not entitled. However, the Council will take care not to cause anyone hardship.

The Council will respect the Human Rights of all persons involved in the investigation of alleged fraud.

This policy is designed to improve the prevention, deterrence, detection and prosecution of Housing Benefit and Council Tax Benefit fraud.