

MANCHESTER CITY COUNCIL

Report for Resolution

Committee : Resources and Governance Overview and Scrutiny Committee

Date : 21 June 2007

Subject : Fraud Investigations within benefits administration

Report of : City Treasurer

Purpose of Report

To provide members with an update on the actions of the Council's Fraud Investigations Group.

This includes standards and expectations set by central government, fraud activity within Manchester and key policies supporting the investigations processes.

Recommendations

Members are recommended to note the report.

Consequences for the Revenue Budget

Improved collection of Council Tax and Benefit overpayments has a positive impact on the Council's financial position.

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Background documents

HB/CTB Anti-fraud Policy and Strategy Document (Appendix 1)

Anti Fraud and Corruption Policy Statement (Appendix 2)

Housing Benefits/Council Tax Benefits Prosecution Policy (Appendix 3)

Wards Affected: All

Implications for:

Anti poverty

The Benefits Service deals directly with those in most financial need within the city. Any delays in processing benefits directly impacts on them emotionally and/or financially.

The Council seeks to pay benefits promptly and accurately to those who are eligible, but seeks to challenge and prosecute those claimants who are fraudulently claiming benefits.

Equal Opportunities

Any delays in processing benefits could potentially affect the viability of housing schemes designed to assist particular vulnerable groups.

Environment

The impact of empty properties used as 'benefit drops' and other residency fraud can have a negative impact on communities,

Employment

Any delays processing benefit claims can have a detrimental impact on employment levels in that people may be put off taking temporary or short-term contracts due to perceived problems with benefits, rent and Council Tax.

1. **Introduction**

1.1 This report follows a request from members to provide an update on the Council's benefit fraud investigations activity.

1.2 The report is split into the following areas:

- The background and legislation to benefits fraud administration, including expectations and options available to the Council;
- The Council's activity and performance in fraud administration; and
- The profile of fraud within Manchester.

2. **Background to the Fraud Investigations Group**

The Fraud Investigation Group (FIG) is responsible for the prevention and detection of claimant fraud. The group seeks to prevent fraud through raising awareness of the issues both internally and externally through presentation and production of counter fraud training, and to detect and punish fraud through a range of sanctions including the prosecution of offenders and recovery of losses.

Where FIG establishes that benefit has been claimed fraudulently, the Council will seek to recover overpaid benefit and prioritises this recovery. In addition FIG may impose a sanction, a Formal Caution or an Administrative Penalty, or prosecute. The decision on whether to prosecute depends on the severity of the offence and the circumstances of the claimant in accordance with the Council's prosecution policy. (This is covered further later in the report).

The group was initially established in 1993 in response to the Government's Anti Fraud Incentive Scheme for Housing Benefit, the remit subsequently being extended to include other areas of claim related fraud against the Council.

Government statistics show that just under 4 million households receive Housing and Council Tax Benefit, including many families with children, and many pensioners. It helps one in six households meet the costs of their housing at an annual cost to the taxpayer of £11.5 billion. In 2005/06 (the latest year for which such figures are available) the Department of Work and Pensions (DWP) estimates the losses due fraud and error in Housing and Council Tax Benefit system amount to in the region of fraud of £900 million, 5.4% of expenditure.

In 2006/07 Manchester paid out Housing Benefit and Council Tax Benefit amounting to £225 million, as such, this area of activity presents the greatest risk of claimant fraud and therefore remains FIG's main area of activity. This is covered in greater detail in the authority's Housing Benefit/Council Tax Benefit Anti-Fraud Policy and Strategy Statement (Appendix 1).

3. **Policy and Legislation covering Benefit fraud**

3.1 Central Government Legislation

The main legislation covering benefit fraud is covered as part of the;

- Social Security Administration Act 1992, (amended 1997, 2000 and 2001)

The detection of benefit fraud involves the investigation of claims where irregularities have been identified or are suspected, firstly to establish whether the claim is correct and secondly whether any offence has been committed. All such investigations are carried out in accordance with relevant legislation and procedural guidance to a professional standard. The legislation governing the conduct of such investigations includes:

- Criminal Procedures Investigations Act 1996;
- Police and Criminal Evidence Act 1984;
- Regulation of Investigatory Powers Act 2000;
- Human Rights Act 1998; and
- Data Protection Act 1998.

In addition, the Welfare Reform Act 2007 has restored local authorities powers to investigate and prosecute fraud in other social security benefit.

3.2 Council Policy covering Benefit Fraud

The Council has 2 main policies covering benefit fraud. They are:

- The Anti Fraud Policy (Appendix 2)
- The Prosecution Policy (Appendix 3)

3.2.1 Anti Fraud Policy

The activity of the group supports the objectives of the Council's Corporate Anti Fraud Policy to provide Officers, Members and residents of Manchester with assurance that as far as possible all necessary steps are being taken to protect public funds.

3.2.2 Prosecution Policy

The Council's HB/CTB Prosecution Policy was approved by the Executive in June 2001.

Every fraud case is considered on its own merits, the decision about whether to sanction or prosecute an offender being taken having full regard for the Council HB/CTB Prosecution Policy, the Code for Crown Prosecutors, the Anti Fraud and Corruption Policy and the guidance from the Secretary of State for Social Security.

4. **Sanctions other than prosecution**

4.1 As detailed in the Prosecution Policy, where at the conclusion of an investigation there is sufficient evidence to instigate criminal proceedings, in certain circumstances consideration is given to issuing an alternative sanction. Currently there are two alternatives to prosecution, the Formal Caution and Administrative Penalty.

4.2 Formal Cautions

A Formal Caution is a warning given in certain circumstances as an alternative to prosecution, to a person who has committed an offence. The use of Formal Cautions is purely administrative as there is no legislation covering their use. However guidance is contained in Home Office circulars 59/1990 and 18/1994. Formal

Cautioning for benefit fraud, was introduced by the Secretary of State in England and Wales in 1998.

The Formal Caution is a warning and can only be considered where:

- There is sufficient evidence to justify instituting criminal proceedings;
- The person has admitted the offence during an Interview Under Caution;
- The offence is not one that requires trial by jury (for example conspiracy);
- The offence is minor and the amount of the overpayment is small, (below the amount where prosecution would be appropriate); and
- The person has not offended before.

Where a person refuses to accept the offer of a caution, the only alternative is to institute criminal proceedings.

4.3 Administrative Penalties

Administrative Penalties were introduced in the Social Security Administration (Fraud) Act 1997. They are a financial penalty, offered as an alternative to prosecution where there has been no previous sanction of any form. The penalty is currently 30% of the recoverable overpayment. There is no right of appeal against the decision nor can the person ask for the amount of the penalty to be reviewed as the amount of the penalty is set in legislation.

Administrative Penalties cannot be imposed, they must be offered. Where an offer is rejected or ignored, guidance from the Secretary of State prescribes that the matter should be referred for prosecution.

5. **Activity and Performance**

5.1 Fraud identification

The work of the team comes from a range of sources including:

- Referrals received from whistleblowers (fraud hotlines etc);
- Reports from various data-matching exercises;
- Irregularities identified during the assessment process; and
- Referrals from other enforcement agencies.

5.2 Performance Standards

In 2002 the Secretary of State for Social Security introduced Performance Standards for benefit administration against which authorities could be evaluated. Within this document, there are four Performance Measures (PM) and 20 enablers for the investigation of fraud, the performance measures being:

- PM 13 - Number of fraud referrals received per 1,000 caseload
- PM 14 - Number of fraud investigators employed per 1,000 caseload
- PM 15 - Number of fraud investigations per 1,000 caseload
- PM 16 - Number of successful sanctions (including prosecution) per 1,000 caseload

These figures along with performance data on the time taken to sift and subsequently initiate an investigation, are reported to the DWP as part of the quarterly statistical return required for benefits administration.

PM13 and PM15 have proven to be an unreliable performance measures due to inconsistencies in how authorities define investigations and what they count as a fraud referral, and are likely to be removed in a forthcoming review of the Performance Standards. As with PM13 and PM15, the number of investigators per thousand caseload (PM14), does not count towards the Corporate Performance Assessment. In relation to other authorities, the Council currently has 0.20 investigators per 1,000 of benefit caseload, in comparison to the AGMA average of 0.24 and the Core Cities average of 0.22.

PM16 is also a Best Value Performance Indicator contributing to the Corporate Performance Assessment score for Benefits Administration, the weightings for which are as follows (fig1):

Score	Number of Sanctions per 1,000 caseload
1	Less than 1.2
2	Between 1.2 and 2.8
3	Between 2.9 and 4.2
4	4.25 or more

(fig1)

PM16 measures and expects the Council to take a robust approach to the detection and identification of benefit fraud and expects the Council to issue formal sanctions when fraud is found. In 2006/7, the Council recorded 271 sanctions cases equating to 3.98 cases per thousand cases. This is the highest level of achievement since the introduction of this PM but still falls short of the level required for level 4 performance.

5.3 2006/7 Performance against Key Performance Indicators

5.3.1 Referrals and action taken

In the period April 2006 to March 2007, the Fraud Investigations Group received 1,996 referrals, of which 1,537 resulted in an investigation. As a result of the activity of the group, 745 benefit claims were either ended or the amount of benefit payable was reduced, resulting in overpayments of £1,488,584 being identified and raised for recovery. As well as raising the overpayment for the benefit that had already been paid, the team were able to stop future payments.

5.3.2 Source of Referrals

The table below (fig2) details the source of the referrals received during the year and highlights how the activity of the group is increasingly being driven by the findings of data matching. The Department for Work and Pensions Housing Benefit Matching Service (HBMS), seeks to detect housing benefit fraud and error, by cross matching various data sets held by central government with the Council's housing benefit data. The data output is received monthly and the reports are evaluated, with those where there is a high risk of the irregularities being the result of fraud being passed to FIG, the remainder being dealt with by the Benefits Service. In 2006/07 HBMS sent 3,777 'hits', after sifting, 532 were passed for fraud investigation.

Additionally, the Audit Commission's bi-annual National Fraud Initiative, which takes data from various participating bodies to identify possible cases of fraud, generates significant number of referrals. Those relating to benefit fraud predominantly relate to undeclared income (claimant or partner) and occupational pensions.

	Data Matching	Benefit Service	Other Internal	Fraud Hotline	Anonymous	Other External	Total
Referrals received	853	363	169	246	198	167	1,996
Investigations	807	258	114	119	106	133	1,537
Benefit ended/reduced	501	106	43	29	24	42	745
Caution issued	123	17	11	1	3	10	165
Admin Penalty accepted	39	13	0	0	2	0	54
Prosecuted and Convicted	31	9	1	2	0	8	51

(fig2)

5.33 Use of Data-Matching

Whilst FIG continues to respond to referrals from other sources and participate in joint activity with both external agencies and enforcement functions within the Council (such as Respect weeks), data matching referrals from both the DWP and Audit Commission National Fraud Initiative (NFI) increasingly dominate the activity of the Group.

Investigating data matching referrals is generally a more effective use of resources. This is usually because there is better quality of data and intelligence received, which therefore requires less use of more intrusive investigation techniques such as surveillance.

6. The profile of fraud within Manchester

6.1 Referrals by Fraud Type

6.1.1 The following table (fig3) breaks down the referrals received, those subsequently investigated together with the number sanctioned into seven fraud types. The highest number of referrals relate to undeclared capital or income, the majority of which are the result of data matching referrals from the DWP HBMS, and include exercises where bank interest data from HM Revenues and Customs has been used to identify claimants who have failed to declare the totality of their savings, and non declaration of Tax Credits.

Of the £1,488,584 overpayments identified by FIG in 2006/07, £1,008,839 (67.7%) resulted from investigations relating to undeclared capital or other income.

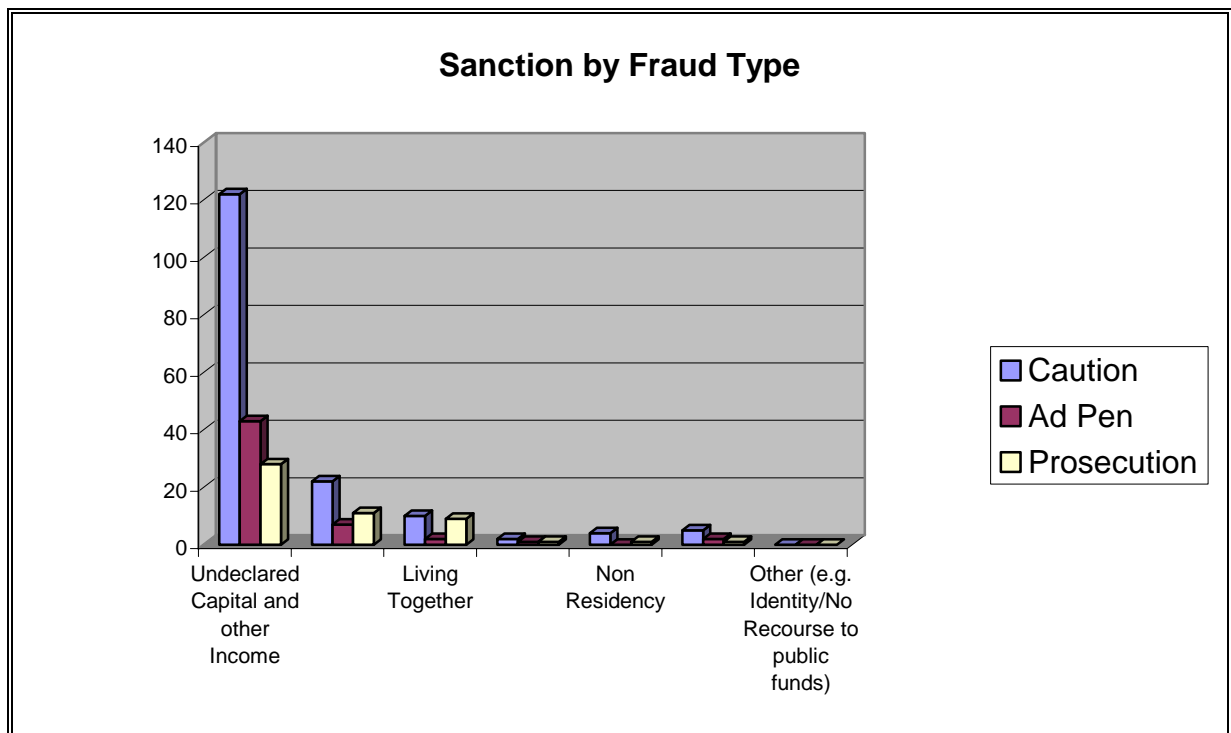
	Undeclared Capital and other Income	Working and Claiming	Living Together	Tenancy Related Fraud	Non Residency	Household composition	Other (e.g. Identity)
Referrals received	898	353	291	43	237	136	38
Investigations	794	245	211	38	166	73	10
Benefit ended/reduced	458	99	59	17	71	33	8
Caution issued	122	22	10	2	4	5	0
Admin Penalty	43	7	2	1	0	2	0
Prosecuted and Convicted	28	11	9	1	1	1	0
Total no.Sanctions	193	40	21	4	5	8	0

(fig3)

6.1.2 Profile of Fraud Cases

At the conclusion of an investigation, a decision is made having full regard for the Council HB/CTB Prosecution Policy and the Code for Crown Prosecutors, as to what sanction, if any, is appropriate in a particular case. The following chart (fig4) shows

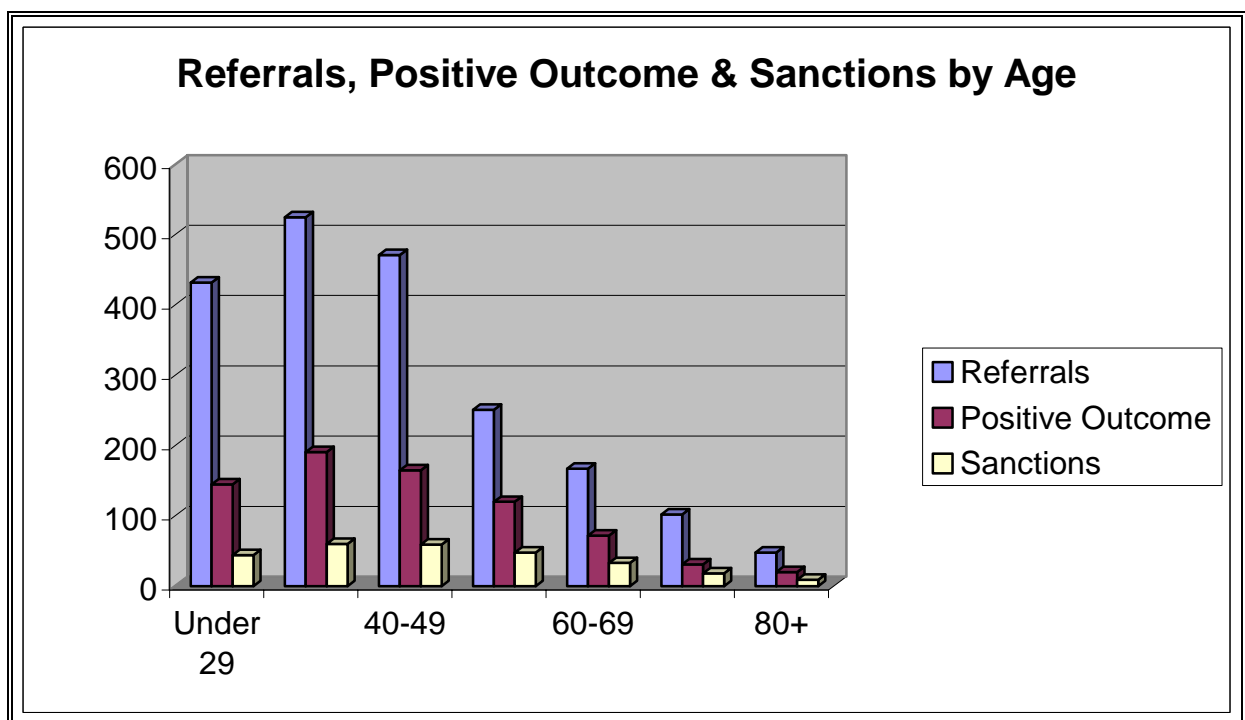
the fraud type generating the highest number of sanctions corresponds to where the highest number of referrals have been received.



(fig4)

6.1.3 Fraud Type and age of claimants

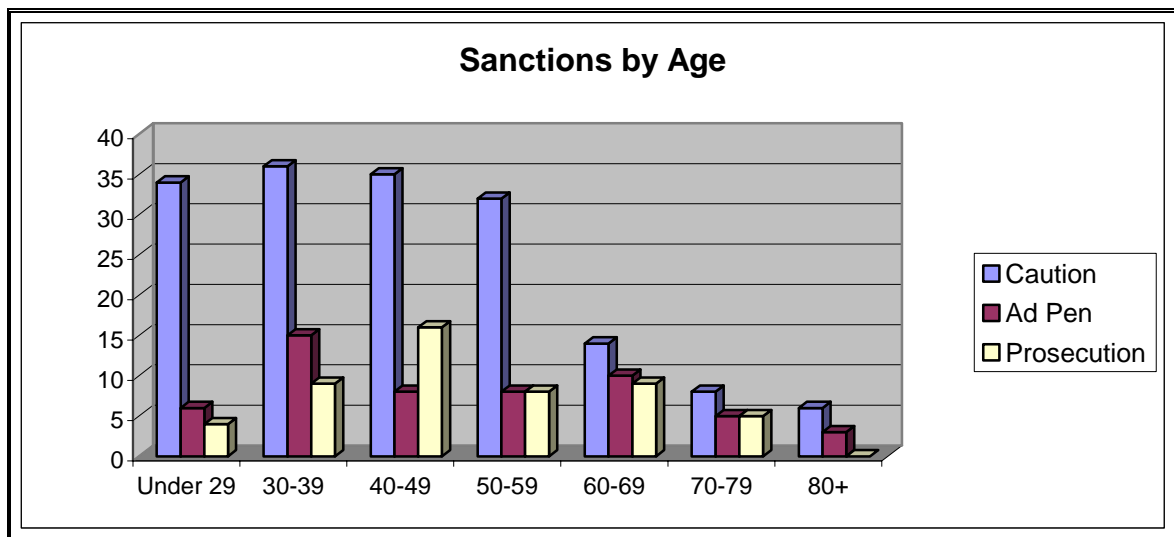
Chart (fig5) profiles the referrals received by age group, and illustrates the correlation between that and the number of cases where benefit was reduced or ended and those subsequently sanctioned.



(fig5)

The chart (fig6) shows the type of sanction that has been applied against the age of the offender, and illustrates that alternatives to prosecution are offered in the first instance. The nature and duration of the offence is a contributory factor when determining the appropriate sanction in a case, and this is reflected in this chart where a significant proportion of sanctions for those under 60 relate to changes in income resulting from receipt of Tax Credits and failures to declare that they have started work. As the HBMS data matches for such cases are now received monthly, we are able to stop the abuse at an earlier stage resulting in smaller overpayments and greater use of formal cautions.

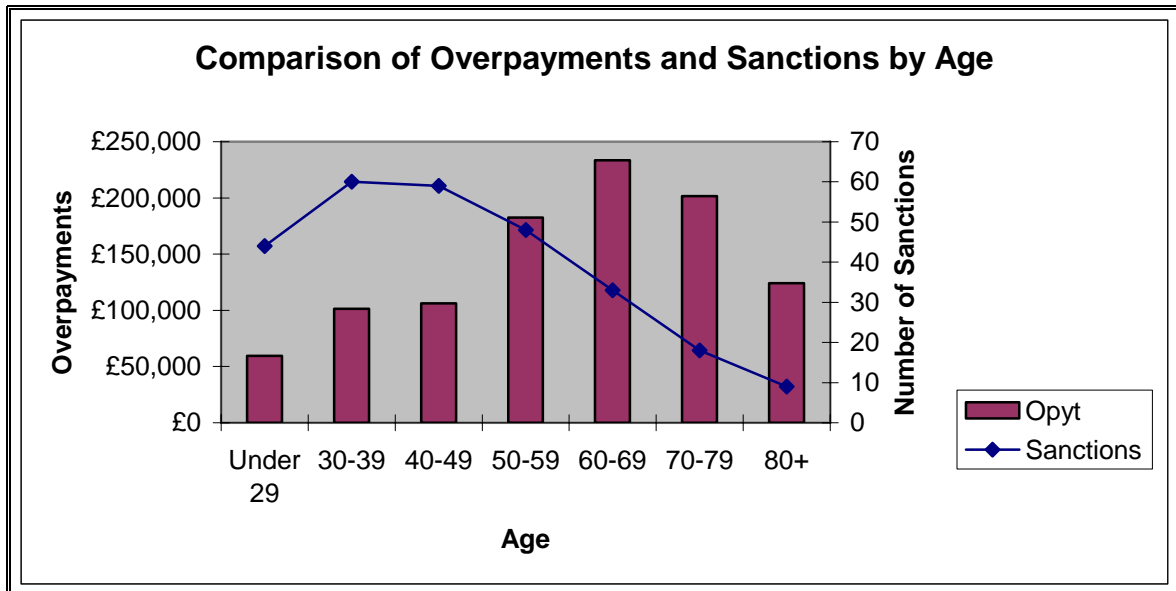
In respect of the number of sanctions for the older age groups, the nature of the offence is again significant with failure to declare capital and occupational pensions being common offences. Many of these offences have been ongoing for longer periods resulting in higher overpayments, being less suitable to be dealt with by caution.



(fig6)

Chart (fig7) shows a comparison by age, of the amount of overpaid benefit identified by FIG and the number of individuals sanctioned. The chart indicates that older age groups (60+) generate substantially higher overpayment amounts, but the levels of sanctions are not proportionate with this.

When considering the suitability of an offender for sanction or prosecution in line with both the Council HB/CTB prosecution policy consideration is given to whether such action is in the public interest. This would include consideration of a number of factors including health, age, likelihood of re-offending, and deterrent effect. Invariably some of these are more likely to be more significant factors when dealing with more elderly members of the community. That being said each case is assessed on its own merits, age in itself would not preclude the issue of a sanction or prosecution.



(fig7)

7. Comparisons with other Councils

The activity within Manchester for referrals and fraud type is consistent with other councils both locally and nationally. The increased availability of data-matching with national databases means that fraud and undeclared circumstances are now identified more readily and councils are required to act on the data-matching results and report back to central government.

8. Conclusions

The Council continues to plan to develop the service in accordance with central government guidelines. We will seek to evaluate and where appropriate investigate cases of suspected fraud in doing so we will rectify incorrectness in the benefits system. This will be achieved by having regard to the Council's Prosecution Policy and where appropriate we will seek to prosecute or sanction offenders.

Further updates will be provided as required, to update members on both performance issues and any changes that could affect benefits fraud work within the Council.

**RICHARD PAVER
CITY TREASURER**

Appendix 1

HB/CTB Anti-fraud Policy and Strategy Document Introduction

The Corporate Anti-Fraud and Corruption Policy (adopted April 1999) clearly sets out the City Council's commitment to ensuring the highest standards of probity and accountability and that dishonesty on the part of members, employees or others involved with the City Council will not be tolerated. This commitment to combating fraud and corruption wherever it may arise includes, the administration and delivery of Housing Benefit and Council Tax Benefit.

As part of this ongoing commitment the Council complies with the requirements of Government's Security Guidance Manual, which seeks to ensure that the administration of Housing Benefit and Council Tax Benefit is secure, fair, provides help where it is needed and is vigilant in tackling fraud and error to ensure value for taxpayers' money.

The Security Guidance Manual seeks to increase accuracy from the start of a claim and throughout its life by emphasising both the prevention and detection of fraud and error, and as part of this requires the authority to have a specific HB/CTB anti-fraud policy.

This policy document complies with the requirements of the security guide, and complements the Corporate Anti-Fraud Strategy.

The Government strategy for dealing with benefit fraud, "Safeguarding Social Security" calls for a sustained and detailed effort across 4 areas:

- i. **Getting it right** - benefit payments should be correct from day one and secure the gateway to claiming benefit from the initial application onwards
- ii. **Keeping it right** - ensuring payments are adjusted as circumstances change
- iii. **Putting it right** - detecting when payments go wrong and taking prompt action to correct them, with appropriate penalties to prevent a recurrence
- iv. **Making sure things work** - monitoring progress, evaluating defences and adjusting them in the light of experience.

This policy outlines the specific approach to deterring, preventing and detecting benefit fraud within the overall anti- fraud policy of the City council. It also has regard to the Council's policy on whistle blowing. The policy should be read in conjunction with the Council's Prosecution Policy approved by Members, which outlines the Council's commitment to consistently and diligently prosecute benefit fraudsters or apply other sanctions where appropriate.

- i. In relation to "**Getting it right**" we will continue to provide staff in the Benefits Service and all other relevant staff ongoing fraud awareness sessions seeking to highlight areas that are susceptible to abuse, and encouraging staff to refer appropriate cases to the Fraud Investigations Group (FIG). We will maintain regular communication with the Benefits Service, contributing to the development of business processes to reduce fraud.
- ii. In relation to "**Keeping it right**" we will work in partnership with the Benefits Service to make the best use of data matching through the Housing Benefit Matching Service to enhance benefit administration and identify areas of potential weakness.

- iii. In relation to “**Putting it right**” the area most relevant to the direct work of the Fraud Investigations Group, we will seek to evaluate and where appropriate investigate cases of suspected fraud seeking to rectify incorrectness and having regard to the City Council Prosecution policy seek to prosecute or sanction offenders.
- iv. In relation to “**Making sure things work**” we will monitor the conduct of investigations seeking to identify and rectify any weaknesses. We will continue to invest in the training and the development of investigations staff and keep up to date with legislative changes.

The continuous development of the Benefits Service and the Fraud Investigations Group are encapsulated in the annual business plans for the Benefits Service and the Fraud Investigations Group, which outline how these areas of work will be kept under continuous review.

The following sections outline the principles and commitments governing the Council’s approach to combating benefit fraud.

Prevention

Preventing fraud entering the system is a key element of Manchester's approach to dealing with benefit fraud. We have and continue to make the benefits gateway more secure while taking steps to ensure that legitimate claimants are not denied access to the benefit system. FIG will continue to work in partnership with the Benefits Service to stop fraudulent claims entering the system and monitoring existing claims to identify potential fraud. FIG will provide feedback on any areas identified as being susceptible to abuse to enable action to be taken to make the system more secure. As part of this process FIG and the Benefits Service will hold regular liaison meetings at which such issues can be discussed and strategies developed.

Other processes in place to prevent benefit fraud entering the system include the following as examples:

- Data matching including the Audit Commission National Fraud Initiative, and the Department for Work and Pensions Housing Benefit Matching Service.
- Provide awareness training for both local authority and external agencies authorised to validate documentation in support of benefit claims
- Royal Mail Do Not Redirect service
- Use of Remote Access Terminals
- Electronic Data Transfer
- Fraud Hotlines
- Housing Benefit Fraud Awareness video
- Publicity Campaigns
- Land Registry Checks
- Risk assessments
- Service Level Agreements with Jobcentre Plus, the Pensions Service, the Rent Service and Housing Associations
- Sanctions / Prosecution policies
- Management checks

Activity will be appraised against the requirements of the DWP Performance Standards, Security Guidance Manual and Benefit Fraud Inspectorate guidance. Where further areas of best practice are identified we will, as and where possible seek to introduce them.

Integrity

All Members and staff in the Revenues and Benefits Unit and the Fraud Investigations Group will complete a Declaration of Interest form on an annual basis and be clear about what is expected of them as outlined in the City Council’s Code of Conduct. All new starters

will also complete the form when they commence employment, the importance of which will be covered in their Induction courses.

All elected Members will complete Declaration of Interest and the Fraud Investigations Group will work with the City Solicitor to provide briefings on probity and fraud awareness.

IT and Physical Security

As in FIG all staff in the Revenues and Benefit Unit sign to acknowledge that they read the Systems Administration and Information Security Staff Code of Practice document. This sets out the expectations of staff with regards to system security, staff will sign to say that they both understand its contents and will adhere to them. System security is covered in Induction Courses for new starters and all new staff when given their user passwords signs the Code of Practice document.

Detection Activity

The detection of benefit fraud involves the investigation of claims where irregularities have been identified or are suspected, firstly to establish whether the claim is correct and secondly whether any offence has been committed. All such investigations are carried out in accordance with relevant legislation and procedural guidance to a professional standard. The legislation governing the conduct of such investigations includes:

- Criminal Procedures Investigations Act 1996
- Police and Criminal Evidence Act 1984
- Regulation of Investigatory Powers Act 2000
- Human Rights Act 1998
- Data Protection Act 1998

All aspects of FIG's activities will be assessed in order to gauge their true effectiveness and value. The overall theme will be one of continual assessment and progression. This will be maintained by:

- Qualitative monitoring of open and closed cases together with key stage reviews of ongoing investigations. These checks will monitor performance and compliance with procedures and good practice.
- Forward planning.
- The provision of Service Level Agreements with third parties, including assessment of performance in relation to these agreements.
- Participation in recognised benchmarking groups.
- Adopting good/best practice as identified by bench marking, BFI, Best Value and FIG's own activities.
- Evaluation of performance indicators and setting specific, measurable targets.

Investigation

Detection activity can be divided into two aspects, these being proactive and reactive investigations.

Reactive investigations are those that result from the receipt of an allegation of fraud provided by the public, City Council employee or other third party.

Proactive investigations are those where suspicion has arisen as the result of activity, which seeks to identify claims that may be fraudulent, by utilising data matching and risk analysis techniques. Such techniques are now an integral part of anti-fraud activity and play an important role in reducing losses through fraud and abuse. Manchester has been at the forefront of the development and implementation of such activity, and will continue to be so by continuing to be involved with the Housing Benefit Matching Service, National Fraud Initiative, and through joint working with other agencies.

Referring cases to FIG

The Corporate Anti Fraud Strategy makes it clear that all council officers have a duty to refer any case or information to FIG where they suspect fraudulent activity. Detailed guidance regarding the types of fraud that people perpetrate and things to look out for is contained in the Fraud Awareness Guide (which is available to all staff involved in the administration of benefits provision). Additional guidance is provided in fraud awareness sessions.

All cases referred to FIG are recorded on the case management system and are assessed to evaluate their suitability for investigation. This will usually be undertaken within 5 working days of receipt of the allegation and, where known, an acknowledgment sent to the originator.

At the conclusion of an investigation in addition to reporting findings to the Benefit Service, the member of staff making the referral will be advised of the outcome, subject to limitations regarding confidentiality and Data Protection.

Referrals from the public and other sources

Allegations from third parties (including the public) will also be recorded on the case management system and assessed to evaluate their suitability for investigation. Normally feedback on the outcome of individual investigations will not be provided to third parties, however we will seek to publicise outcomes where appropriate.

Allegations from the public which identify a named individual and contain reasonable grounds for suspecting Housing Benefit / Council Tax benefit fraud will be investigated.

Landlord Fraud

Whilst recognising that the majority of the landlords in Manchester are honest, there may also be those who may attempt to systematically defraud the benefit system. Payments of benefit are often made direct to landlords on behalf of the claimant. This may give unscrupulous landlords the opportunity to falsify claims or assist claimants to falsify claims for benefits. FIG where appropriate will undertake targeted exercises making use of IT resources and information gathered as the result of previous activity, taking into account local risk factors. FIG will monitor those who are perceived to be high risk to ensure they are complying with relevant regulations.

The management of FIG will continue to attend Landlord Forums when requested and provide awareness sessions.

The City Council will where appropriate, make full use of the Authorised Officer powers contained in the Social Security Administration Act 1992 to obtain information and seek to prosecute those landlords who offend and will recover any overpaid benefit, either direct from continuing payments of benefit to the landlord or through civil action.

Landlords, who are receiving benefits direct, are obliged to report any changes in their tenant's circumstances as failure to do this may mean more benefit being paid to a landlord than they are entitled to. The Benefits Service informs landlords of their duty to report known changes and failure to do so is an offence under the Social Security Administration Act 1992. Where such an offence has been committed, the Council will consider whether prosecution should be sought and decide whether they are a 'fit and proper' person to receive benefits direct as described in the Social Security Administration (Fraud) Act 1997.

Sanctions and Prosecution

The Council has a prosecution policy agreed by Members, which also includes sanctions currently available as alternatives to prosecution. The range of sanctions, penalties and prosecutions available is subject to change as appropriate legislation is passed. The

prosecution policy will be amended where necessary to reflect such changes. Prosecution will be sought where offenders meet the criteria laid down in the Prosecution Policy, having full regard for matters of Public Interest and guidance in the Code of Practice for Crown Prosecutors. Prosecutions will be sought using the appropriate legislation and may include the following:

- Social Security Administration Act 1992 (Sections 112, 111A, 182)
- The Fraud Act 2006
- Theft Act 1968 (Various Sections)
- Theft Act 1978 (Section 2)
- Criminal Law Act 1977
- Criminal Justice Act 1987 (Section 12)
- Accessories and Abettors Act 1861 (Section 8)
- Magistrates' Courts Act 1980 (Section 44 (1))
- Criminal Attempts Act 1981 (Section 1)
- Forgery and Counterfeiting Act 1981
- Social Security Administration (Fraud) Act 1997

Each case referred for a sanction or prosecution is treated on its own merits, ensuring sufficient evidence exists to warrant prosecution or the application of a sanction. Guidance relating to the prosecutions and sanctions criteria together with guidance on the suitability of offenders are detailed in the Prosecution Policy.

The Benefits Service will apply any "Two Strikes" sanctions requests made by DWP, to relevant benefits administered by the Council in accordance with the Social Security Fraud Act 2001 and The Social Security (Loss of Benefit) Amendment Regulations 2002. The Loss of Benefit provisions (commonly known as 'Two Strikes') enable the Secretary of State to apply a sanction to benefit payable during a fixed 13-week disqualification period, where a person has been convicted on two separate occasions (within a three year period), of separate benefit fraud offences.

Closer working

Effective investigation of benefit fraud cannot be carried out in isolation of either other departments within the council or other agencies such as the DWP. Manchester also recognises that benefit fraud does not exist in isolation and that fraudsters do not necessarily limit their activity to one area. The responsibility for benefit fraud has therefore been placed within the Fraud Investigations Group, whose remit is to investigate claim related fraud, perpetrated against the authority.

Having full regard to the relevant parts of the Data Protection Act 1998, FIG will continue to liaise and assess the benefits of closer working with other departments and external agencies within the counter fraud community. FIG will continue to work with the Police and other government agencies on cases where it is believed that joint working will aid in achieving a positive outcome.

Manchester will continue to work closely with other Local Authorities through active involvement of the Greater Manchester Fraud Initiative Group and the Greater Manchester Joint Operational Boards, which is the platform from which to maintain and improve its levels of co-operation with the DWP and neighbouring local authorities.

Overpayment recovery

Both FIG and Benefit Service staff identify Fraudulent and claimant error overpayments that are recovered by the Revenues and Benefit Unit.

The recovery policy is detailed in the Revenues and Benefits Unit Overpayment Strategy document which, states:

Where overpayments of benefits occur due to fraud by claimants the Council will seek to recover all such overpayments using all available tools to their fullest and, where appropriate, impose sanctions.

The prioritisation of fraud overpayments is also a key objective of the Benefit Service Overpayments Plan and procedural guidance is in place to ensure all fraud overpayments are identified and prioritised.

Deterrents

All Council issued benefit claim forms carry warnings and information advising prospective claimants of the possible risks to them should they choose to misinform the council of their personal circumstances.

Manchester seeks to publicise those prosecutions, which may have a deterrent effect, issuing press releases to local news agencies. FIG provides regular updates to staff in the Benefits Unit about successful cases and planned future activity.

Manchester also provides and publicises a freephone benefit fraud hotline. Its purpose is not merely seen as a way of generating referrals but as a deterrent by making it clear to the public that the council is serious about combating benefit fraud.

Manchester has produced a Housing and Council Tax benefit awareness video that will be made available to all staff.

The Corporate Anti- Fraud Policy (which is available to all staff) states that staff involved in the perpetration of benefit fraud will be subject to disciplinary action and that such involvement will be viewed as gross misconduct. The Council's Prosecution Policy further states that the prosecution will be sought in all cases where an employee or member is involved.

Manchester expects the highest standards of probity from its employees and will therefore treat involvement in any Benefit Fraud by a member of staff as gross misconduct. This stance has been set out in the Corporate Anti Fraud Strategy, which is available to all staff on the intranet.

The City Solicitor will be made aware of any fraud involving an elected Member so that regardless of any criminal action that might be being considered, referral to the Standards Committee can also be considered.

Training

Manchester will remain at the forefront of the development and introduction of Counter Fraud Professional Accreditation training. The Authority is committed to the provision of a professional Investigation service and will continue to ensure that investigation staff receives accredited training keeping up to date with legislative changes and good practice. All investigators, and managers will as a minimum standard achieve the Accredited Counter Fraud Officer qualification, and be encouraged to continue to certificate level or above. This will have the effect of reinforcing the general commitment to maintain high and professional standards.

It is equally important that staff in the Benefits Service who are effectively the front line in the prevention of benefit fraud, are given fraud awareness training as they are a vital element to the success of the overall strategy. FIG will continue to provide annual awareness training for all staff in BS, in addition to training for all new staff.

FIG will also support the provision of annual awareness sessions for all City Council employees whose duties involve them in the completion receipt and validating of information for claims to benefit.

Appendix 2

Manchester City Council **Anti Fraud and Corruption Policy Statement**

1. Manchester City Council is committed to ensuring that the people of Manchester can have complete confidence that the affairs of the City Council are conducted in accordance with the highest standards of probity and accountability. The City Council is, consequently, committed to combating fraud and corruption wherever it may arise in relation to any of the Council's activities or services and involving any members or officers of the Council or members of the public or other third parties.
2. The Council expects members and officers to demonstrate the highest standards of honesty and integrity. This includes compliance with appropriate legislation, codes of conduct, Standing Orders, Financial Regulations, conditions of service, standards of appropriate professional bodies, and any other standards, guidelines or instructions which are relevant to the particular service or activity.
3. The Council is committed to establishing and maintaining effective arrangements to prevent fraud and corruption. The Council recognises, however, that fraud and corruption cannot always be prevented and so effective arrangements have been established to detect and investigate all incidents or situations where fraud and corruption is suspected.
4. The Council will not tolerate dishonesty on the part of any of the members or officers of the Council or any persons or organisations involved in any way with the City Council. Where fraud or corruption is detected the City Council will rigorously pursue appropriate action against the persons concerned including legal and / or disciplinary action.
5. The Council is committed to creating and maintaining an anti fraud and corruption culture and this includes establishing arrangements which enable employees, or other persons, to express concerns and suspicions without fear of repercussions or intimidation and in the knowledge that the information will be treated confidentially and will be investigated fully and rigorously.
6. The Council is committed to working constructively with the police and other relevant agencies in relation to combating fraud or corruption within the City Council or within the wider public sector.
7. The Council will seek to ensure that the Council's stance on anti fraud and corruption is widely publicised. All employees and members of the City Council will be made aware of this policy statement.
8. This policy statement will be supported by a detailed Guidance Note, which sets out strategic arrangements and procedures for applying the policy.

Appendix 3

Manchester City Council **Housing Benefits/Council Tax Benefits Prosecution Policy**

As outlined in the Manchester City Council's Antifraud Policy Statement the City Council is committed to protecting the public funds it administers through its actions in respect of the investigation of suspected fraudulent claims for Housing Benefits and/or Council Tax Benefits.

This policy statement is intended to provide the agreed framework for City Council officers involved in the detection, investigation and prosecution of Housing Benefit and Council Tax fraud.

At the conclusion of all investigations by members of the City Council's Fraud Investigation Group, where it is considered that appropriate evidence exists to sustain a prosecution the Authority will consider which of the following actions are appropriate:

Local Authority Caution

Where the overpayment is under £500, and

- the claimant has never previously offended, and
- the offence(s) were not planned or systematic, and
- there was no other person involved in the fraud, and
- the offender has admitted the offence,

are grounds for considering the use of a Local Authority Caution as the relevant penalty.

Administrative Penalty

Where the overpayment is over £500 and under £1,500, and

- it was a first offence, and
 - the offence(s) were not planned or systematic, and
 - there was no other person involved in the fraud, and
 - the person is in genuine financial hardship, or the person is a single parent, or a pensioner, or is in need of Social Services assistance,
- are grounds for considering the use an Administrative Penalty.

Criminal Prosecution

For all other cases where the overpayment is over £1,500, or

- it was not a first offence, or
- the offence(s) were planned or systematic, or
- there were other persons involved in the fraud, or
- Employees or Members are involved in the commission of the offence(s)

then the Authority would consider prosecuting the offender and other persons directly involved in the offence.

However, every case will be considered on its own merits and action will be considered as appropriate. It is noted that some cases will not fall into any category.

Suitability of Offenders for Prosecution

When considering whether it is appropriate to instigate proceedings, the Investigating Officer must first consider if there sufficient admissible evidence to justify bringing a prosecution and that any such prosecution is in the public interest.

The following paragraphs outline the factors, which must be considered, to ensure consistent and equitable treatment of those accused of fraud.

1) Financial Limits

Careful consideration would have to be given to commencing a prosecution where the amount of the fraudulent activity has not resulted in 'significant financial gain' to the claimant, i.e. the amount of the fraudulent overpayment is less than the cost of proceedings.

Where there is no significant financial gain a prosecution could still be considered if it is felt that the fraud was a deliberate attempt to gain money by deception (if, for example, the fraud has been discovered after a relatively short space of time and a significant financial gain has not yet occurred), or in the case of a persistent offender or any other case where prosecution would be warranted.

An initial financial guideline figure of £1,500 has been established as the minimum amount at which the Authority would refer a case for prosecution, unless there were aggravating factors such as previous history of fraud or where it the offences were planned.

2) Physical / Mental Factors

Consideration must be given to the mental and physical condition (including age) when deciding whether to prosecute. The officer should consider whether there are significant personal or mental problems that may have contributed to the reasons for committing the offence. In addition, due consideration should be given where there is any evidence to suggest that the claimant or partner or a third party (e.g. a child) would be severely affected by our action. .

It is essential when considering the above issues that an appropriate impartial opinion as to the claimant's physical and/or mental condition is obtained.

3) Voluntary Disclosure

It may not be appropriate to prosecute those, whose disclosure of their own free will, has led to the identification of a fraud of which the Authority was unaware. Admissions made after enquiries had commenced do not constitute voluntary disclosure.

4) Previous Incidence of Fraud

Any evidence of previous benefits-related fraudulent activity should form part of the overall "prosecution assessment", regardless of whether any previous offences resulted in prosecution.

5) Social Factors

If it is considered that the claimant's failure to declare the correct circumstances has been caused by significant extenuating social or financial factors these should be fully evaluated. The fact that an individual was in debt or has limited assets would not in it self meet this requirement.

6) Adequacy of Evidence

Substantive evidence is essential to secure any conviction. Proceedings should not be sought if there is any doubt that the required evidence is not available. It must be clear that the fraudulent act was actually committed, that it was committed in the full knowledge of benefit regulations and that it was committed with the clear and deliberate intention to obtain property by deception. Satisfying the requirements of the Code for Crown

Prosecutors Evidential Test will ensure that evidence is of the standard required by the courts.

7) Failure In Investigation

It should be evident on the case file that all appropriate procedures have been adhered to with regard to satisfying the requirements of the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigations Act 1996 and other relevant legislation. Particular consideration should also be given to any delay in the course of enquiries, which may be considered as unacceptable by the court.

8) Failure In Benefit Administration

Full account must be taken of remiss administration or fault on the part of the Authority or the DWP (formerly the DWP) that has contributed to the processing of the fraudulent claim and subsequent award of benefit.

Post-investigation Considerations

Once the Investigating Officer has completed the investigation, the Fraud Manager will consider each case on its merits applying the criteria in this policy and in the Code for Crown Prosecutors and any other circumstances relevant to the case.

The Fraud Manager will decide whether there is enough evidence to provide a realistic prospect of securing a conviction and if so, whether it is in the public interest to offer a caution, offer an administrative penalty or recommend prosecution.

Authorisation of Sanction or Prosecution

Decision to offer Caution or Administrative Penalty will be made by the Fraud Manager, having full regard to the Council policy. Cases being referred for prosecution will be authorised by the City Treasurer, in consultation with the City Solicitor.

The City Treasurer may also refer cases to the Police where it is considered that the nature of the offence, or the procurement of evidence requires them to undertake the investigation. The City Treasurer may instruct the manager of the Fraud Investigations Group to act on his behalf in this regard.

As recognised by the Benefit Fraud Inspectorate it may be necessary on occasion to vary the level at which sanctions or prosecution are applied in the light of particular circumstances or for operational reasons.

Publicity

Press releases will be issued in suitable cases to seek to maximise the deterrent effect and raise the level of public fraud awareness. Consideration will be given to the amounts involved, nature of the offence, public interest and deterrent value of publicising a particular case. For example if the court impose an unusually lenient sentence it may not be in the public interest to publicise the case as it sends out the wrong message.

Review of Policy

The policy will be reviewed in the light of any legislative changes; trends or other factors that impact on the effectiveness of the policy.