

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**FINANCE and PROPERTY ADVISORY BOARD**

**22 May 2013**

**Report of the Director of Finance & Transformation**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Non-Key Decision**

**1 CORPORATE INVESTIGATIONS UPDATE**

**Summary**

**This report updates Members on the work of the Corporate Investigation Section during 2012/13, work undertaken so far in 2013/14 and an update of developments in relation to fraud investigation. It also introduces the Business Plan for 2013/14 and requests that Members recommend that Cabinet endorse it.**

**1.1 Outturn 2012/13**

- 1.1.1 There were 85 cases opened during the year and 115 closed. Of the cases that were resolved 18 resulted in some form of penalty.
- 1.1.2 There were five Local Authority Cautions given. This is a caution that is recorded by the Council and the Department for Work and Pensions (DWP) and is retained on records for five-years. This can only be given where a person has admitted an offence and is an alternative to a prosecution. If the person reoffends within the five-year retention period then the Caution will be considered when determining the outcome of the future offence and can cited in Court.
- 1.1.3 There were six Administrative Penalties accepted as an alternative to prosecution. This is a penalty fixed at 30% of the overpayment determined as fraudulent. The amount of these penalties amounted to £4,235.81 and this amount is in addition to the overpayment which is also recoverable.
- 1.1.4 There were eight prosecutions, seven resulted in a guilty outcome and one being found not guilty.
- 1.1.5 In April 2012 the DWP changed their investigation policy to only investigate cases where the overpayment is likely to be above £2,000. In addition, once the case has been investigated, their prosecution policy states they will consider prosecuting cases where the overpayment is above £2,000. The policy change means that the DWP are no longer considering cases where a caution or administration penalty would be issued, this has reduced the number of cautions and administration penalties being offered each year. The policy change,

although not adopted by the Local Authority, has resulted in a review of the way we treat referrals where the overpayment is lower than £2,000.

## **1.2 Work to Date 2013/14**

- 1.2.1 At the time of writing this report there has been one caution accepted, two Administrative Penalty accepted which has resulted in £647.64 of penalties and two successful prosecutions.
- 1.2.2 There are currently 12 cases that have been recommended for prosecution. These are at various stages of progress either with the Council or DWP.
- 1.2.3 The National Fraud Initiative has been release and work has started to look at the 973 matches identified, members will be updated on the results of this data match later on this year.

## **1.3 Court Cases not previously reported**

- 1.3.1 Jacqui Bennett failed to report income from work whilst in receipt of disability benefits and housing and council tax benefits. As a result, overpayments of £30,500 of DWP benefits and £6,000 of Housing and Council Tax benefits were created. Miss Bennett entered a guilty plea and was sentenced to 12 weeks imprisonment, suspended for 2 years with 200 hours unpaid work.
- 1.3.2 A West Malling woman who failed to declare a change in her household which resulted in a £5,000 overpayment was fined £150 and ordered to pay £150.00 costs. A decision was made not to issue a press release and name the individual as it was not in the public interest to do so.
- 1.3.3 Sally Fennessy pleaded guilty to failing to declare she had received a capital in excess of £6,000. This resulted in an overpayment of £15,000 in Housing and Council Tax benefits. The court imposed a requirement to conduct 240 hours unpaid work and to pay £100 towards costs.

## **1.4 Housing Fraud**

- 1.4.1 False housing applications are still being detected within the housing allocations process. The investigation section is working with the allocations team to prevent false applications by providing advice on further information available to verify people's circumstances, assisting in verifying some information provided and attending interviews with customers to challenge where conflicting information is detected.
- 1.4.2 There are a number of investigations on-going where there are allegations of properties being sublet or abandoned. I investigators are working jointly with Housing Officers within Russet Homes, Moat Housing and Town and Country Housing when benefits are in payment.

- 1.4.3 A data match was conducted between the housing allocation data and Single Person Discount (SPD) data in order to identify any incorrect SPD or housing applications. This resulted in three SPD discounts being cancelled, seven applications being withdrawn due to a change of circumstances and two applications being updated with new data.
- 1.4.4 The Social Housing Fraud Act was passed in April 2013 which introduced new offences for subletting and will, once enacted, provide local authorities with authorised officer powers (similar to those that Investigators currently have for benefit fraud).

## **1.5 Single Benefit Investigation Service (SFIS).**

- 1.5.1 Members will be aware that with the introduction of the Universal Credit (UC) that the Government has announced the formation of a Single Benefit Investigation Service (SFIS). This service will encompass investigators from Local Government.
- 1.5.2 The date for introducing this body is now April 2014 (previously April 2013). In April 2013 three pilot sites went live for SFIS and through 2013/14 the DWP are looking at piloting more sites. Members will be update once further details are available on how SFIS will be rolled out from April 2014.

## **1.6 Council Tax Benefit/Council Tax Reduction Scheme**

- 1.6.1 From April 2013, Members will also be aware that Local Authorities introduced the localised Council Tax Reduction Scheme. Regulations have been made to provide Authorised Officers with powers to obtain information relating to offence being committed against the CTR scheme, these powers are similar to those they currently have.
- 1.6.2 Following changes in the discount and exemption entitlement for Council Tax, a review of the fraud risks with the Revenues team is being undertaken. Guidance on preventing fraud is being developed with the Principal Revenue Officer with enhanced verification, new application process and referrals being raised with the Investigation Team if fraud is suspected.

## **1.7 Business Plan 2013/14**

- 1.7.1 One of the requirements under the old Housing Benefits Performance Standards was for the section to prepare an annual Business Plan that was endorsed by Members. Although these standards are no longer applicable, the Housing Benefit Performance Guide recognises the production of an annual business plan as good practice.

- 1.7.2 The section has moved from investigating solely benefit related fraud to considering all corporate fraud. This decision is based upon the legislative changes that having taken place over recent years that requires all investigations to be conducted to a criminal standard and to be trained in these skills.
- 1.7.3 The Business Plan 2013/14 identifies the planned approach by the section to fraud investigation based upon the resources available. Members will be aware that regular updates are provided to this Board on the outcome of the work of the section supported by an annual outturn report.
- 1.7.4 A copy of the draft Business Plan for 2013/14 is attached as **[Annex 1]**.

## **1.8 Legal Implications**

- 1.8.1 The Section must comply with a strict legal framework within the legislation regarding criminal investigation in order to progress prosecutions for offences under the Social Security Administration (Fraud) Act 1997.
- 1.8.2 In addition there is a requirement to follow strict legislation in relation to conducting criminal investigations. Failure to comply with this could lead to evidence being deemed an un-admissible in court resulting in unsuccessful prosecutions and a loss of credibility in court with a potential for damages claims.
- 1.8.3 The Council also has a Prosecution Policy that requires consideration of the “public interest test” in order to avoid any potential inappropriate prosecutions.

## **1.9 Financial and Value for Money Considerations**

- 1.9.1 The Council has a duty to ensure that the correct benefit is paid to those who are entitled to receive it. A failure to investigate allegations of fraud could result in excess benefit being paid and ultimately to a reduced subsidy payment from central government.
- 1.9.2 The longer that a benefit claim takes to correct then the greater the overpayment will be. The Council lose 60% of subsidy on housing benefit overpayments so there is an immediate cost to the Council for overpayments if the Council is unable to collect the debt.
- 1.9.3 The Council will consider all appropriate action in order to recover any overpayments of benefits.

## **1.10 Risk Assessment**

- 1.10.1 A failure to have an effective fraud investigation process could lead to a failure to meet external inspection requirements.
- 1.10.2 In the worse possible scenario a failure to perform well in this area could result in Government intervention in Benefits Administration.

- 1.10.3 A significant reduction in the level and speed of Benefits Investigation could lead to an increase in fraudulent activity and a long-term increase in overpayments.
- 1.10.4 As the Council lose subsidy on overpaid benefits then the sooner an ongoing overpayment is stopped then the final overpayment is reduced. The Council's policy is to recover all overpayments where possible and the smaller an overpayment is then the less time it takes to recover the debt.
- 1.10.5 A poor performance in fraud investigation could lead to an increased level of external audit if it were considered to be failing.

### 1.11 Equality Impact Assessment

- 1.11.1 The investigation of potential benefit fraud is carried out under the Police & Criminal Evidence Act 1984 Guidance. This makes provision for the protection of vulnerable groups. In addition any sanction action arising from an investigation will consider the "public interest test" which also considers vulnerable groups.
- 1.11.2 All cases are dealt with in accordance with the evidence available and on its own merit using consideration of the safeguards above in order to avoid any impact on any groups.

### 1.12 Recommendation

- 1.12.1 Members are **REQUESTED** to consider the proposed Benefits Investigation Section Business Plan 2013/14 and to **RECOMMEND** endorsement by Cabinet.

Background papers:

contact: David Buckley

Fraud Section Files

Sharon Shelton

Director of Finance & Transformation

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The Business Plan is a statement of work intentions. The actual cases are dealt with by using the relevant standards which take specific needs into consideration.

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	The standards used by the Investigation Team consider specific needs during the course of investigation.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*