

TRAFFORD COUNCIL

**Report to:** Accounts and Audit Committee  
**Date:** 26 September 2013  
**Report for:** Information  
**Report of:** Investigations Manager (Fraud Investigation Service)

**Report Title**

**Fraud Investigation Service (FIS) : 2012/13 Annual Report**

**Summary**

The report:

- outlines the Councils' responsibilities towards tackling benefit related fraud that has been perpetrated against it; provides details of the teams' performance during the period April 2012 – March 2013;
- provides details of the outcomes of activity over this period; and
- outline the teams' plans for 2013/14.

The report will also be distributed to the following:

- Executive Member (Finance)
- Executive Member (Transformation & Resources)
- Director of Legal and Democratic Services

**Recommendation**

The Committee is asked to note the report.

**Contact person for access to background papers and further information:**

Name: Mark Foster – Audit and Assurance Manager  
David Wright – Investigations Manager

Extension: 1323 / 2771

**Background Papers:** None



# TRAFFORD COUNCIL

Fraud Investigation Service (FIS)

Annual Report

2012-2013

# Fraud Investigation Service Annual Report – 2012/2013

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## **1. Introduction**

The purpose of this report is to:

- Outline the Councils' responsibilities towards tackling fraud that has been perpetrated against it
- Provide details of the teams' performance during the period April 2012– March 2013
- Provide details of the outcomes of action that was taken over this period
- Outline the teams' plans for 2013/14.

## **2. Responsibilities and Approach to Dealing With Benefit Fraud**

**2.1** Local Authorities have a statutory duty under section 151 of the Local Government Finance Act 1972 to make arrangements for the proper administration of their financial affairs. This obligation includes a duty to have effective controls and procedures in place to prevent, detect and investigate fraud and error in Housing Benefit and Council Tax Benefit.

**2.2** Preliminary statistics from the Department for Work and Pensions (DWP) estimate that during the period from April 2012 – March 2013, £790m of total state benefits were overpaid to claimants as a result of fraud, which shows the extent of the abuse of the benefits system that is taking place. This shows a reduction from the estimated £820m that was lost through fraud in 2011/12. Of this amount, nationally, approximately £350m related to Housing Benefit. This equates to 1.5% of the £23.8 bn total expenditure for this benefit.

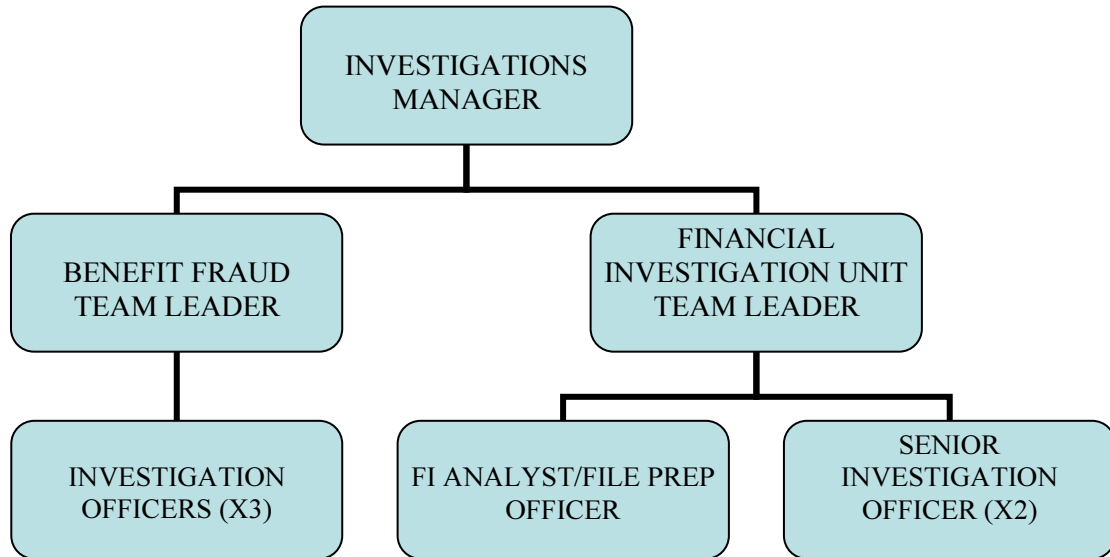
(Source: DWP report - Fraud & Error in the Benefits System – June 2013 )

**2.3** The Authority has a dedicated Fraud Investigation Service that seeks to address the problem by tackling benefit fraud in various ways. Further details, including methods used are outlined in the attached Appendix A. The level of staffing on the team was reduced from 10 to 9 when a member of staff left the Authority in March 2012.

The Fraud Investigation team has been located within Stretford Police station since April 2012 as part of the Operation Bank project which sees a number of agencies working alongside GMP to tackle organized crime. This project is discussed in further detail further on in this report.

2.4 The Service, in addition to a fraud investigation function, also contains a Financial Investigation Unit (FIU), which conducts Financial Investigations in accordance with Proceeds of Crime Act legislation.

The team is currently structured as shown below:



To meet with the requirements of the unit, some of the posts entail the post holder having roles that cover both areas of work that we carry out. For example the two Senior Investigators share their time between carrying out benefit fraud investigations and conducting financial investigations.

### 3. Team Performance 2012/13

#### 3.1 Planning

The objective of the Fraud Investigation Service **is to prevent, deter, investigate and detect fraud in order to significantly reduce benefit fraud in Trafford**. The service plan sets detailed tasks and objectives against which progress is monitored against each month. Each investigator also has individual targets set at the beginning of each year, and progress against their targets is monitored on a monthly basis. The Financial Investigation Unit has a target linked to the level of income it is able to generate as a result of Court Orders obtained due to action taken against those persons who have been convicted of benefit fraud.

## 3.2 Performance / Outcomes

### Fraud Investigation Team

3.2.1 The role of the Fraud Investigation team is to tackle benefit fraud by acting on referrals received from numerous sources, conducting investigations with the purpose of identifying where offences have taken place that have resulted in benefit being claimed incorrectly and enabling the Authority to recover such overpaid monies. Appropriate action will be taken against those parties that deliberately defraud the Authority in this way. The following section of this report outlines the achievements of the team in dealing with this area of work and compares it to performance of previous years.

### **Performance statistics April 2008– March 2013**

#### 3.2.2 Source of fraud referrals

Referrals come from a wide variety of sources and the seven most common types are listed in Table 1. Last year saw a slight reduction in the number of referrals received compared to 2011/12 (11.5 %), but it did see a significant increase in the number of referrals from the benefits service as a result of reviews undertaken that have highlighted a number of claims where the claimants had failed to report changes in their income details. There has also been an increase in a number of the referrals from the police as a result of the partnership working being done with them.

**Table 1 – Source of Fraud Referrals**

	<b>2008-2009</b>	<b>2009-2010</b>	<b>2010-2011</b>	<b>2011-2012</b>	<b>2012-2013</b>
Housing benefit and council tax benefit staff (HB/CTB)	28.14%	20.51%	22.83%	19.86%	33.99%
Department for Work and Pension staff (DWP)	5.89%	6.41%	8.23%	5.79%	6.31%
Housing Benefit Matching Service	31.87%	38.89%	22.41%	30.9%	20.31%
Proactive work	5.44%	0.71%	5.67%	5.38%	4.46%
Anonymous calls/letters	22.96%	21.65%	29.23%	25.1%	22.92%
National Fraud Initiative	-	4.99%	3.69%	3.86%	0
Police	n/a	n/a	n/a	2.76%	6.61%
Other Sources	5.25%	6.56%	5.82%	8.15%	5.4%
Total Received	662	702	705	725	650

### 3.2.3 Detecting and investigating fraud

The statistics below show the success that the fraud team has had in detecting fraud and identifying amounts of benefit that have been fraudulently claimed in the last 5 years. Figures for last year show an increase in the number of investigations completed, and, once again a further significant increase in the total overpayments identified than the amount identified in 2011-12. The level of fraud overpayments identified as a result of investigations undertaken was the highest amount since the team was set up, beating the previous highest figure set in 2011-12. This shows that the team are continuing to conduct more complex and in depth investigations which are consequently identifying higher levels of overpayments in many cases, which is a trend that has continued for the last few years. This can be also shown in that the average level overpayment per case that is successfully concluded has risen over the years and is now at its highest level compared to previous years.

**At the beginning of the year the team was set a target to identify overpayments to a total value of £600k (this includes all national benefits) which was achieved.** Once identified, the Authority always seeks to recover any fraud overpayments from the claimant, as well as imposing sanctions as appropriate. The Authority is able to claim a 40% subsidy on all such overpayments, which, if recovered, provides an income stream. Housing and Council Tax benefits accounted for £396k of the £644k identified as being fraudulently obtained. This means that, providing full recovery of these amounts are made, the Authority would be able to claim an additional subsidy income of £158k. Details are shown in Tables 2 and 3 and the charts on page 8.

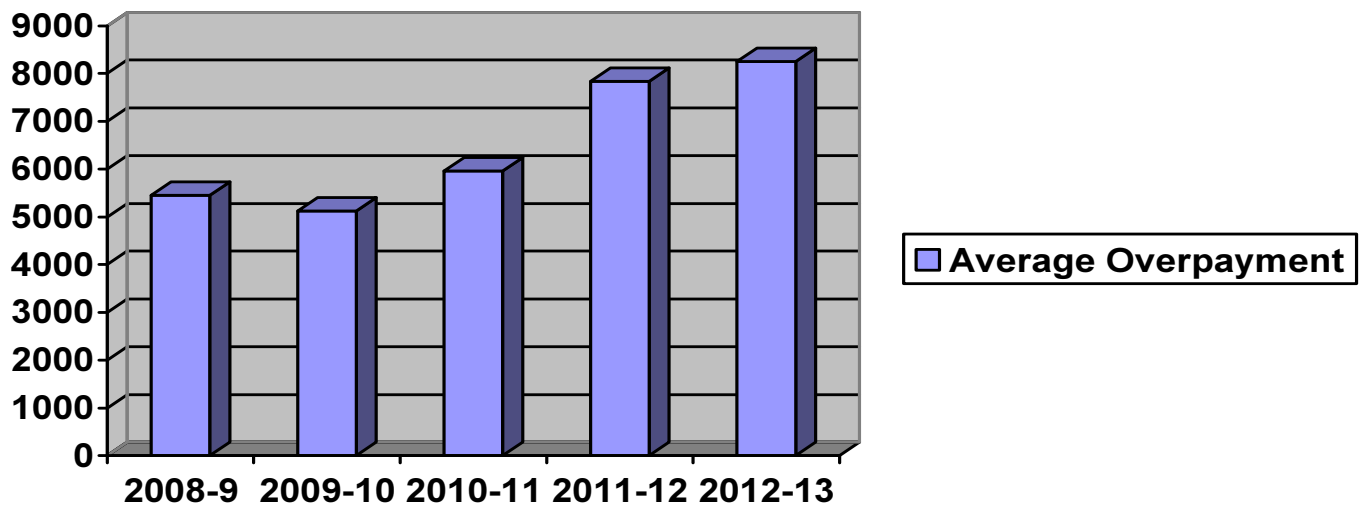
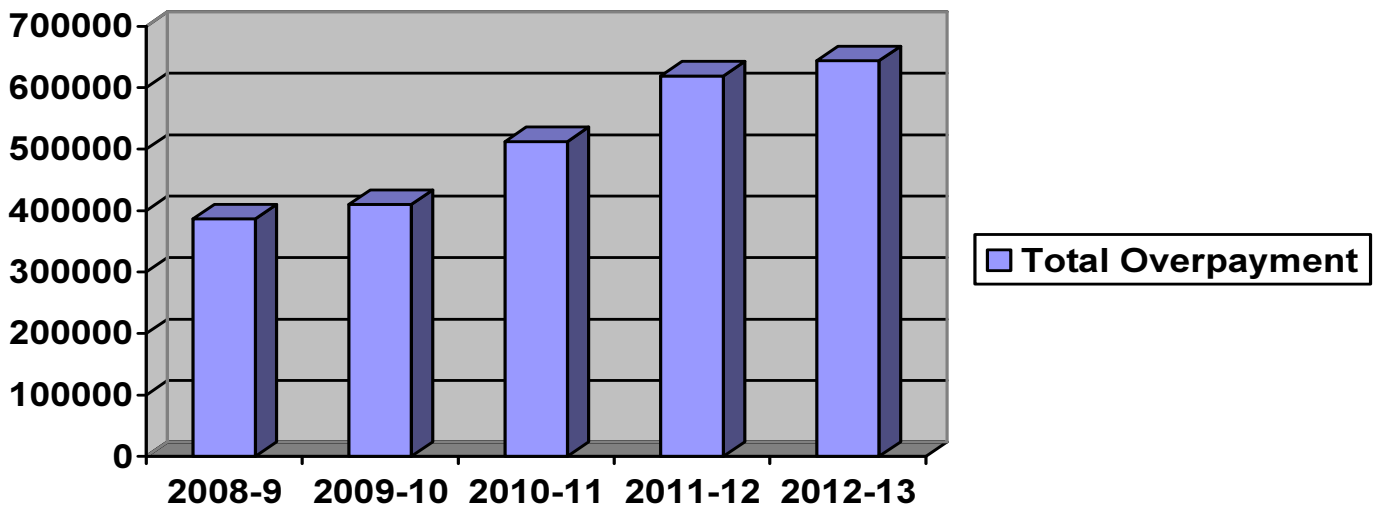
**Table 2 – No. Of Completed Investigations**

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
Number of cases investigated	409	352	611	448	498

**Table 3 – Value of Fraud Identified**

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
Value of fraud identified	£386,751.44	£410,128.45	£512,413.54	£619,052.82	£643,891.77
Average overpayment per sanction/prosecution	£5447.20	£5126.61	£5958.30	£7836.11	£8255.02

### Value of Overpayments (£) 2008/9 to 2012/13



#### **3.2.4 Applying sanctions**

Once an investigation has been conducted, and it has been established that fraud has taken place, as well as recovering any overpaid benefits from the claimant, the Authority has the power to impose a further sanction against them. This can either be in the form of:

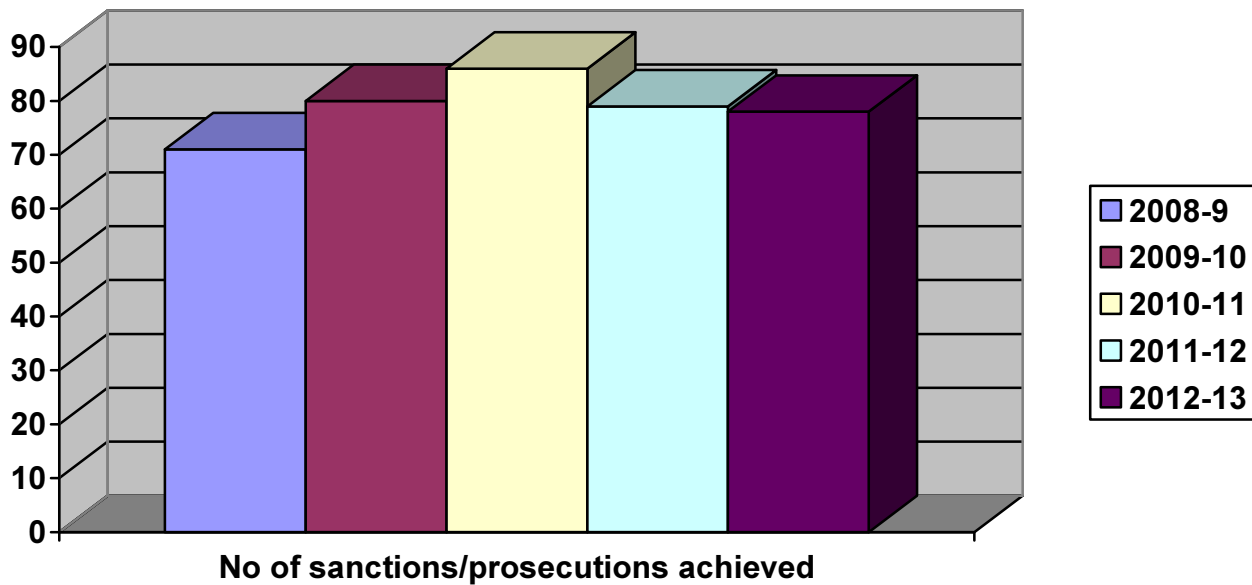
- **a written formal caution (similar to a police caution).**
- **the imposition of a financial penalty (known as an Administrative Penalty) or,**
- **in more serious cases the Authority will take legal action.**



Action is taken in accordance with our Benefit Fraud Sanctions Policy (see appendix B). Table 4 and the chart below outlines the number of sanctions imposed by the team over the last 5 years.

**Table 4- Number of Sanctions Achieved**

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
Total cautions accepted	31	23	23	25	18
Total admin penalties accepted	9	21	21	14	14
Total prosecutions achieved	31	36	42	40	46
Total No of Sanctions	71	80	86	79	78



The statistics in Table 4 show a very slight reduction from the previous year in the number of sanctions and prosecutions achieved by the Authority. However, as previously stated, the overall level of fraud identified as a result of these investigations has increased as has the average level of overpayment per case. The last 12 months has seen a continuation in the pattern from previous years of more serious benefit fraud offences being identified. This has resulted in an increase in the level of prosecutions completed – the highest that the team has ever achieved – which counted for 58.97% of the total sanctions/prosecutions achieved compared to 43.66% back in 2008-9.

### 3.2.5 Ensuring that resources are available to tackle fraud

**Table 5- Number of Counter Fraud Specialists**

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
Number of counter fraud specialists employed on the team	4.5	4.5	4.5	4.5	4.5

The figures in Table 5 show the position at year end, and show that the FTE level of staff investigating benefit fraud has remained the same. There are currently only 3 dedicated benefit fraud investigators in post as at year end – the remainder of the figure shown is accounted for by other staff who are also part of the Financial Investigations Unit or who have other responsibilities within the Unit.

### 3.2.6 Types of fraud

**Table 6- Analysis by Type of Fraud**

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
Percentage of working and claiming cases	38.0%	43.8%	45.4%	57%	30.8%
Percentage of living together as husband and wife cases	2.8%	11.3%	14.0 %	10.1%	20.5%
Percentage of undeclared income cases	15.5%	16.3%	17.4 %	12.7%	12.8%
Undeclared Non-dependants	8.5%	0%	1.2%	2.5%	1.3%
DWP benefit ceased	11.3%	6.3%	0 %	1.3%	0%
Tenancy Fraud	5.6%	0%	3.5%	1.3%	7.7%
Undeclared capital	14.1%	11.3%	9.3%	7.6%	15.4%
Other	4.2%	11%	9.2%	7.5%	11.5%

The figures in Table 6 show the most common types of fraud uncovered by the team over the last 5 years. It is noticeable that there has been an increase in the last 12 months in the number of claimants who have been found to have failed to declare that they have partners residing with them. Historically this has always been a very difficult offence to prove but the increase in the variety of intelligence available to the investigators (in particular the use of social networking sites) has enabled some significant overpayments that have accrued over long periods of time to be identified. 13 of the 46 prosecutions achieved in 2012-13, were related to such cases, 6 of which identified overpayments in excess of £10k. One case alone resulted in an overpayment of just under £100k being identified.

### 3.2.7 Performance Targets

The Fraud investigation team had two main performance indicators which related to the number of sanctions or prosecutions achieved and the overall level of overpayments that these cases attracted.

This was done to ensure adequate focus on more serious abuse of the benefits system.

Table 7 shows performance in these 2 areas in relation to the targets set:

**Table 7- Performance Indicators 2012/13**

Performance Measure	2012/13 Target	2011/12 Actual Performance
No. of Sanctions/Prosecutions achieved	75	78
Level of benefit fraud overpayments identified	£600k	£643.89

Both of these targets were met due to the continued efforts of the fraud investigation team and the support of the Council's Legal Services who prosecute the majority of the cases identified as being suitable for such action.

### 3.2.8 Tackling Benefit Fraud

Whilst conducting work against benefit fraud, the team works in conjunction with two major policies – The Benefit Fraud Sanctions Policy and also a Benefit Fraud Policy statement which are reviewed regularly. These are included in the attached Appendices and will be subject to review in 2013/14.

### 3.2.9 Financial Investigation Unit (FIU)

The Financial Investigation Unit has been in operation since April 2006, and was set up with the aim of providing a real deterrent by removing the financial incentive from fraud. An additional benefit to this is the fact that the Authority is able to claim back the proceeds of crime which can in turn be reinvested to the local communities and service users.

Following a slight re-allocation of duties with regards to benefit fraud investigation the unit now comprises 2.5 FTE including investigating officer and management support time. They are tasked with conducting in depth financial investigations into claimants who have already been identified as committing benefit fraud with a view to uncovering the fraudster's assets and identifying the extent to which they have benefited financially from their criminal activity.

The financial investigators also carry out benefit fraud investigations, with the emphasis put on cases that are most likely to lead to financial investigations being carried out as well.

The Financial Investigator uses powers granted under the Criminal Justice Act 1988 or Proceeds of Crime Act 2002 and is able to obtain court orders from any financial institution (banks/building societies etc) or public body (e.g. solicitors) which is believed to hold documentary evidence that would assist the investigation. This enables the investigator to obtain material that will help them to uncover previously hidden assets (property/capital etc) that may have been obtained from criminal activity – not just benefit fraud.

At the end of the investigation, an order can be obtained from the courts that will require the criminal to repay any such assets back to the Treasury, a proportion of which is passed on to the prosecuting authorities.

In terms of income generation, 2012/13 was a frustrating year for the Unit. There have been a number of cases that have been highlighted as being potentially extremely fruitful but they have taken a long time to progress because of their complexity and also because of the approach being used by the defendants which has extended the time it has taken for the cases to be concluded. However, towards the end of the year significant progress was made in a couple of major criminal cases which will hopefully see the financial investigation successfully concluded in 2013-14.

In the last couple of years, the Unit has increased the focus on seeking to identify cases highlighted by our own fraud investigators, rather than working on behalf of partner local authorities which had initially formed a large part of their case work. The reasoning behind this was that it meant we would have greater control of cases being investigated as well as ensuring that the Authority receives a greater share of the income generated as a result of Confiscation Orders obtained. This has already resulted in more referrals being received from within the service, which should increase the chances of much higher levels of income being generated for the authority over the next couple of years.

Any work undertaken for other Local Authorities is done so on a fee basis that is dependant on the size of the confiscation order obtained as a result of the investigation we have undertaken on their behalf – thus generating further income to be used by the Authority to benefit the Borough. A set fee is charged for all Compensation Orders obtained on behalf of another authority.

A financial investigation can be a lengthy process – as are the legal procedures that follow the completion of such an investigation. Table 8 (overleaf) shows details of the Units' performance in the last 4 years:

**Table 8- Financial Investigation Unit**

Year	No of Cases Concluded	No of Confiscation orders Obtained	No of Compensation Orders Obtained	Total Value of Orders	Income to unit from Orders	Costs Awarded to Unit	Total Income Achieved
2009/10	25	6	9	£722,255	£42,532	£27,108	£69,640
2010/11	41	5	2	£167,566.72	£5427	£11,810	£17,237
2011/12	32	2	1	£105,000	£7009	£10435	£17,444
2012/13	19	3	2	£108,748	£10,500	£26,107	£36,607

The income generated from the Confiscation orders is split between HM Treasury, the Magistrates Court (who are responsible for enforcing the order) and the prosecuting authorities involved. The income from the Compensation Orders obtained is paid direct to the prosecuting authority with Trafford receiving a fee for obtaining the order on their behalf.

At the end of the year there were 44 cases outstanding – some of which could be potentially extremely lucrative. Four cases in particular have been identified which are currently at various stages of investigation which are anticipated will yield significant revenue for the authority. However they may take some time to conclude due to their complexity and it will be 2013/14 before this happens. If the cases do succeed as anticipated the income generated from these cases will most likely not be fully received until 2014/15.

Work undertaken by the FIU is done in accordance with the Council's Financial Investigation Policy. (see Appendix C). As with the other policies relating to this service area, this will be reviewed on a regular basis.

### **3.2.10 Partnership Working**

Over the last 12 months the team has continued to build on the closer working partnership that was set up in 2011 between various departments within Trafford Council (e.g. Fraud Investigations, Trading Standards, Licensing, Environmental Health, Community Safety) and Greater Manchester Police together with support from external agencies such as the DWP, HMRC, Probation Service & Immigration Services.

The project was set up under the name Operation Bank with the aim of working together, sharing intelligence & working practices to target & disrupt known criminals and their gangs living within the Borough.

Both elements of the Fraud Investigations team has been heavily involved in this and as a result there have been many cases identified that would not otherwise have come to the Authority's attention, and similarly, suspected offenders that GMP were seeking to target have been able to be arrested and convicted for benefit fraud and/or trading standards offences that they would not otherwise have been able to take action against.

At the end of March 2012, the entire team was re located to share an office with the GMP officers involved in the Operation Bank project within Stretford Police station. This has facilitated further closer working relationships that have resulted in positive results being achieved.

Some of these cases can be quite complex and therefore take considerable time to progress to completion, but the last 12 months saw the first two benefit fraud convictions that arose from the partnership with defendants being prosecuted for tenancy frauds that resulted in overpayments of £36k and £21k respectively. It is anticipated that further such cases will be completed during the course of 2013-14.

## **4. Planned Activity for 2013/14**

It is acknowledged that this it is currently a very challenging period for the Fraud Investigation Service. In addition to carrying out its roles to investigate benefit fraud, and seek to recover profits from crime that have been obtained there is great uncertainty in the role that local authorities will play in the future.

As part of the Government's policies on welfare reform, a single fraud service commenced operation at a number of pilot sites in the country from April 2013 to tackle all types of welfare benefit fraud (including Tax credits which has never previously been the remit of either local authorities or the DWP).

It is still unclear at this stage whether the plan to have a national single fraud service in operation will actually go ahead from April 2014. Outcomes from the pilot schemes will help to determine the decision. If this does happen, it would lead to investigations staff currently employed by local authorities, the DWP and HMRC being tasked with the duties of investigating all range of

benefits/tax credits rather than working jointly as they do now. Under the proposals, staff involved in benefit fraud investigations will still be employed by the LA, but working in accordance with DWP policies and procedures in the short term. All prosecutions will be conducted by the Crown Prosecution Service (who have now taken over this duty from DWP solicitors). It is still not clear what the exact structure, particularly in terms of management organisation, of the new service will be. This should become clear over the coming months.

Staff involved in carrying out financial investigations will also be continuing this work but as part of the financial investigation arm of the single fraud service. Whilst this should lead to a greater level of referrals it is not clear how the share of the incentivisation scheme would be affected which could have an impact on potential income that could be obtained for the Council.

If the service does become fully operational it is anticipated that it would fall under the control of the Dept for Work and Pensions but there will still be some areas of work that councils will be responsible for investigating (eg Council Tax reduction scheme fraud)

However, through 2013/14, the Fraud Investigation Service is committed to continuing to prevent, deter, detect and investigate benefit fraud in Trafford, through effective working across the Council and other agencies and the appropriate application of related legislation. Service priorities are to:-

- **Continue to measure performance against targets in relation to benefit fraud investigation.**
- **Conduct Quality Assurance on investigations being conducted.**
- **Develop pro-active working both internally and with external agencies.**
- **Continue to ensure that an anti fraud, security aware culture is developed.**
- **Continue the work of the FIU and obtain further Confiscation and Compensation Orders in respect of Investigations undertaken.**
- **Work closely with Internal Audit to use our joint expertise to help combat other types of fraud being perpetrated against the Authority.**
- **Continue the work commenced in respect of the National Fraud Initiative 2012/13 data matching exercise.**
- **Continue to develop the work of the Operation Bank project that is aimed at tackling serious organised crime in the borough.**



**TRAFFORD**  
**COUNCIL**

**Transformation  
& Resources  
Directorate**

**Tackling Benefit  
Fraud Policy**

**August 2012**



## **1. Introduction**

This document sets out Trafford Council's policy for countering benefit fraud.

This policy links closely to the Council's overall strategy for tackling fraud and corruption and should be read in conjunction with the Council's Anti Fraud and Corruption Policy.

Under the provisions of the *Local Government Act 1972 (s. 151)* there is a statutory responsibility for Local Authorities to protect public funds and ensure the proper administration of them.

- **What is benefit fraud?**

If, when claiming benefit, a person deliberately provides false information or deliberately withholds information needed to decide the correct benefit payable, this constitutes a fraud.

Fraud enters the system by claimants or landlords or both failing to disclose or fabricating information, which in turn, affects the amount of benefit they receive.

- **Levels of benefit fraud**

Benefit fraud currently costs the taxpayer over a billion pounds each year. Improved prevention and detection will enable more resources to become available for Government and local authority spending programmes.

- **Where does it occur**

There are many types of benefit fraud, however, it is very often the case that these types of fraud do not exist in isolation and you find a number of different types of fraud combined in a single case. The following are the main types of benefit fraud:

Tenancy fraud – false or artificial tenancy, overstating rent payable, claim by homeowner, claimant and landlord working together to defraud.

Household fraud – undeclared partner in the property, claimant claims partner has left, undeclared non – dependants in the household.

Earnings fraud – working and claiming, failure to declare earnings correctly.

Income fraud – non-declaration of occupational or private pension, failure to declare receipt of other benefits and/or tax credits.

Change of circumstance fraud – failure to notify a change of address, failure to notify a change of income or capital, failure to notify a change of household.

Savings or Capital fraud – non-disclosure of property or savings.

## **2. Trafford's Approach**

The ultimate aim of all our counter fraud work is to support improved Council services. Stopping the theft of public money by fraudster's means that as an organisation we are able to see that money deployed is as the taxpayer intended.

In order to tackle national and local issues of benefit fraud Trafford Council will endeavour to prevent, detect, deter and investigate fraud and make available appropriate resources in the form of a benefit fraud investigation team

- **Tackling Benefit Fraud**

Trafford Council's benefit counter fraud work will be in tune with, and directly support, the aims of the Council where we will:

resource a benefit fraud investigation team within the Transformation and Resources Directorate to deliver the Council's responsibility to tackling benefit fraud:

work with other departments to aim for the highest standards of stewardship of public funds, and of efficiency in the best possible use of Council resources;

make the most use of all available information & intelligence and always seek to harness improvements in information technology and other developments in our professional standards;

have secure systems in place and, where types of benefit fraud occur, we are able to identify them quickly and feed the knowledge of how they are perpetrated back into the process of preventing them occurring again; and

will use all available legal remedies to take action against benefit fraudsters; and

where appropriate, apply further legislation in accordance with Proceeds of Crime Act 2002 to identify the extent of other possible criminality and recover assets via the Courts.

- **Management Responsibilities**

In order to succeed in achieving our aims and objectives, we need support from all management levels within the Council. Managers need to ensure the appropriate culture and measures are in place in order to reduce fraud.

We also need to work closely with other departments of the Council to ensure a zero tolerance approach to fraud is taken. This will be done by working to ensure that strong and effective disciplinary action is taken against any member of staff who has been found to be involved in falsely claiming benefits from the Authority.

Managers, particularly those with accountability for services providing benefits or connected services have a responsibility for ensuring delivery of appropriate counter fraud controls and procedures and for ensuring the appropriate counter fraud culture.

Our aim is to ensure managers within the Council with responsibility relating to all types of benefits, associated systems and payments see responsibility for counter fraud awareness and initiatives as an integral part of their roles.

### **3. Purpose**

The purpose of this policy is:

To put in place formal arrangements which, once implemented, will further increase the professionalism and effectiveness of the Fraud Investigation Team in combating benefit fraud. This will also ensure there are formal arrangements for the Authority to operate a professional, effective function to combat benefit fraud.”

To continue with a range of initiatives aimed at significantly reducing and ultimately preventing and eliminating benefit fraud in Trafford. In order to do this the Council has set itself a series of objectives.

### **4. Objectives**

The objectives of this Council in tackling benefit fraud are:

the **creation of an anti-fraud culture**;

develop effective **prevention** controls:

maximum **deterrence** of fraud;

professional **investigation** of detected fraud;

effective **sanctions**; and

effective methods for seeking **redress**;

## **5. Tackling Benefit Fraud**

To assist in achieving the above objectives the Fraud Investigation Team will:

- Employ investigation officers who have gained or are willing to gain the Professionalism In Security (PINS) qualification and who have agreed to adhere to the investigators' code of conduct as well as the corporate one.
- Ensure that investigators are competent, appropriately trained and fully aware of all legislative procedures and any subsequent changes, and Council policy requirements.
- Conduct all investigations in accordance with the relevant legislation such as the *Police and Criminal Evidence Act 1984 (PACE)*, the *Criminal Procedures Investigations Act 1996 (CPIA)* as well as adhering to the file quality and investigations procedures laid down by the Council.
- To act with honesty, professionalism and integrity when dealing with all the Council's Members and officers and with all claimants (whether fraudulent or not) and other customers.
- Record all fraud referrals on a case management database.
- Conduct a risk assessment on all fraud referrals within 10 working days and make a considered decision as to whether investigation of the case is viable.
- Where appropriate, notify all referrers within 10 working days the outcome of any risk assessment and whether a decision has been made to investigate. Start all investigations within 10 days of a positive risk assessment.
- Record all actions on a case in the prescribed manner and maintain case files to the prescribed standard.
- To raise a separate fraud file on each investigation.
- Undertake all and any investigation(s) with due consideration to relevant legislation, with particular regard to the *Human Rights Act 1998*, the *Regulation of Investigatory Powers Act 2000*, the *Data Protection Act 1998*, *Freedom of Information Act 2004* and in particular race equality issues.
- Make correct use of all Authorised Officer powers granted under s.109 of the *Social Security Administration Act 1992 (as amended 1997, 2000 and 2001)* and in accordance with the restrictions of any warrants issued on behalf of the Secretary of State under s.110A of the act.

- Conduct all investigations, with particular regard to investigations involving taped interviews, with due consideration for the guidelines contained in the code of practice drawn up under the provisions of the *Police and Criminal Evidence Act 1984*.
- Conduct taped interviews utilising officers who have completed training in the *PEACE* (Plan, Engage, Account, Closure, and Evaluation) style of undertaking interviews.
- Conduct surveillance in an appropriate manner, duly authorised by the Investigations manager utilising the prescribed forms.
- Notify the Benefits section of the outcome of any fraudulent investigation and subsequent course of action recommended by the investigation manager or investigator.
- In cases where an overpayment occurs, the Fraud Investigation Team will ensure the correct classification is made. If the overpayment is fraudulent the investigation manager will consider whether further action up to and including prosecution is required.
- Prosecute, or apply a sanction, in accordance with the Trafford Council Benefit Fraud Sanctions Policy, all persons who have or have attempted to defraud the benefits system (subject to certain criteria).
- Ensure maximum publicity is obtained on all appropriate cases. This acts as a deterrent to fraudsters and helps reinforce the message that fraud is unacceptable. This also encourages members of the public to inform the authority of persons they believe may be defrauding the benefits system.
- Continue to participate in the Department for Work and Pensions (DWP) Housing Benefit Matching Service. Under the scheme individual claims are checked with those from other authorities and agencies to identify fraudulent or duplicate/multiple claims.
- Participate in the National Fraud Initiative (NFI), which allows comparison of a range of data against other data sources.
- Continue to work closely with Council Tax and Housing Benefits to deter, prevent and detect benefit fraud.
- Maintain a repository of up to date information pertaining to legislation, procedures, intelligence and relevant documentation for the purpose of facilitating the investigation process.
- All cases where it is considered that prosecution is appropriate will also be considered for referral to the Council's Financial Investigation Unit for

action to be taken in accordance with the Criminal Justice Act 1998 or Proceeds of Crime Act 2002.

With regards to service delivery the team will consider the Council's Equality & Diversity Policy i.e. treat everyone equal regardless of race, colour, creed, sex, disability or religion and act with honesty, professionalism and integrity when dealing with all customers. The team will also make sure that all documentation is handled in a secure and safe manner especially those documents and processes which are deemed to be confidential.

The Fraud Investigation Team is keen to work in partnership to combat fraud. Officers will work to strengthen links, both internally and with a view to carrying out joint operations. Organisations involved include Her Majesty's Revenue & Customs, Police, Immigration, and the Department for Work and Pensions (Jobcentre Plus) plus other Local Authorities.

To ensure that the team keeps abreast of the latest information, the Council subscribes to publications both printed and electronic concerning fraud and benefits. In addition, the team subscribes to organisations dedicated to the fight against benefit fraud and fraud. These organisations include the Local Authority Investigation Officers Group (LAI OG) and the National Anti-Fraud Network (NAFN).

## ***6. Review of Policy***

The Tackling Benefit Fraud Policy will be reviewed by the Investigations Manager on a regular basis

It will be approved by the Audit and Assurance Manager with referral also being made to CMT/Executive if any significant changes to the policy are required.



**TRAFFORD**  
**COUNCIL**

**Transformation  
& Resources  
Directorate**

**Benefit Fraud  
Sanctions  
Policy**

**August 2012**

## **TRAFFORD COUNCIL – BENEFIT FRAUD SANCTIONS & PROSECUTIONS POLICY**

### **1. Introduction**

As outlined in Trafford Council's Anti Fraud and Corruption Strategy the Authority is committed to protecting the public funds it administers through the prevention; detection, deterrence and investigation of suspected fraudulent claims for Housing Benefit and/or Council Tax Benefit.

The Authority recognises that the use of sanctions and prosecutions, as defined by the Fraud Act 1997, is an integral part of this commitment and has a key role in deterring offenders.

The Authority will in all cases make sure that a fraud has been committed, and that the fraud investigators have adequate evidence to carry out an interview under caution, in accordance with the Police and Criminal Evidence Act 1984 to determine the correct circumstances.

Where it is considered that appropriate evidence does exist to sustain a sanction or prosecution the Council will consider if the following are appropriate:

### **2. Local Authority Caution (Caution)**

Grounds for considering the use of a Caution are where the evidential requirement for a prosecution is satisfied, the overpayment is less than £2,000, 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, and
- there is evidence of financial hardship that would make an Administrative Penalty inappropriate.

Cautions may also be offered in cases where the overpayment is greater than £2000 but there are mitigating health and/or social factors present that would make it inappropriate to consider prosecution as a first option.

Cautions may also be offered if there is no financial loss to the Council but guilty intent must have been established.

### **3. Administrative Penalty**

Grounds for considering the use of an Ad pen are where the evidential requirement for a prosecution is satisfied, the overpayment is less than £2,000, 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 the ability to pay a financial penalty.

Note: The offender does not have to make an admission of the offence for an Administrative Penalty to be appropriate.



#### **4. Prosecution**

The Council would consider prosecuting the offender and other persons directly involved in the offence where the overpayment is over £2,000, 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
- the ad pen or caution is refused, or
- employees or members of the Authority are involved in the commission of the offence(s).

#### **5. Prosecution Criteria**

When considering whether or not further action such as criminal proceedings is appropriate, each case will be considered on its own merits, and whether it is in the public interest or cost effective to undertake. The option will remain to take prosecution action in any case when aggravating circumstances exist, irrespective of the overpayment involved.

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

##### **a. Financial Limits**

An initial financial guideline figure of £2,000 has been established as the minimum amount at which the Council would refer a case for prosecution, however, the option will remain to take prosecution action in any case when aggravating circumstances exist, irrespective of the financial loss or overpayment involved.

##### **b. Physical / Mental Health Factors**

Prosecution will not be pursued where it is considered that exceptional personal or mental health problems have been a contributing factor. Due consideration will be given to those claimants who will be adversely affected by our action.

##### **c. Voluntary Disclosure**

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

##### **d. Previous Incidence of Fraud**

Any evidence of previous benefit fraud, regardless of the result, will form part of the overall prosecution decision.

##### **e. Social Factors**

If the claimant's failure to declare the correct circumstances was caused by significant extenuating social or financial factors, they will be fully evaluated. An admission of debt or limited assets would not in itself meet this requirement.

##### **f. Adequacy of Evidence**

To secure any conviction substantive evidence will be required. It must be clear that the fraudulent act has been committed, and that guilty knowledge; guilty action, guilty/fraudulent intent and, if appropriate, dishonesty have been established.

##### **g. Failure in Investigation**

All appropriate procedures must have been adhered to and satisfy the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigations Act 1996, Regulation of Investigatory Powers Act 2000 and other relevant legislation. Due regard must also be given to any delay which the courts may find unacceptable.

**h. Failure in Benefit Administration**

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

**i. Employee Involvement .**

Criminal proceedings will be considered in all cases where employees are found to have either made or participated in the making of fraudulent benefit claims to this or any other authority. Any such cases will also automatically be referred for possible disciplinary action to be taken in accordance with the Council's Anti Fraud & Corruption Strategy.

**6. Post Investigation Considerations**

Once the investigating officer has completed the case, the investigations manager will consider each case on its merits applying the criteria in this policy (which is in accordance with that in the Code for Crown Prosecutors) and any other relevant circumstances relevant to the case.

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

**7. Authorisation of Sanction or Prosecution**

The decision to offer a caution or administrative penalty will be made by the Investigations Manager. Such cases may be dealt with by way of a formal interview or by agreement with the offender by post. Cases being referred for prosecution will be authorised by the Investigations Manager and/or an appropriate officer in Legal and Democratic Services.

**8. Department for Work and Pension cases (DWP)**

In cases where the Council has been the lead agency on joint working between the Council and the DWP, the Authority will consider prosecuting on behalf of the DWP in line with the above criteria providing adequate authorisation has been given by them to do so.

The Council will also consider prosecuting on behalf of the DWP in line with the above criteria in instances where joint working has not taken place but where offences have occurred in respect of a DWP administered benefit.

**9. Publicity**

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

In all cases, authorisation will be requested from the Audit and Assurance Manager prior to the release of any information.

## **10. Further Action**

Cases where it is considered that prosecution is appropriate will also be considered for referral to the Council's Financial Investigation Unit for action to be taken in accordance with the Criminal Justice Act 1998 or Proceeds of Crime Act 2002. All referrals to the unit will be authorised by the Investigation Services Manager.

## **11. Conclusion**

The Authority will seek to deter those committing benefit frauds by imposing a caution, administrative penalty or to prosecute in all appropriate cases.

Only those cases that are considered to be deliberate and blatant attempts to defraud the system will be pursued.

Any such cases uncovered that involve employees of the Authority will automatically result in disciplinary action being taken against them.

The criteria that has been established here is designed to ensure that the correct cases are brought to court, the correct sanctions are issued and that the Authority acts in a positive way to actively seek out and deter deliberate and blatant fraudsters.

## **12. Approval & Review of Policy**

The Benefit Fraud Sanctions Policy will be reviewed by the Investigations Manager on a regular basis. It will be approved by the Audit & Assurance Manager with referral being made to CMT/Executive if any significant changes to the policy are required.

**APPENDIX C**



**TRAFFORD**  
**COUNCIL**

**Transformation  
& Resources  
Directorate**

**Financial  
Investigation  
Policy**

**August 2012**

## 1. **Remit of the Financial Investigation Unit**

- 1.1 As outlined in Trafford's Anti Fraud & Corruption Strategy, the Council is committed to protecting public funds through fighting fraud and corruption whether attempted from inside or outside of the organisation.
- 1.2 The Council will take effective action to detect and investigate fraud, and where it has been proven to have occurred will take appropriate action as set out in the Anti-Fraud & Corruption Strategy and the Benefit Fraud Sanctions Policy.
- 1.3 In addition to this the Council will endeavour, to deter individuals from committing fraud against the Authority and, in cases where it has been proven that fraud has taken place, recover funds lost by taking the proceeds out of crime, in accordance with the legislation appropriate to the Proceeds of Crime Act 2002 and Criminal Justice Act.
- 1.4 We shall endeavour to trace assets, track money that is being hidden and, where necessary and appropriate, secure restraint or confiscation and enforce orders to recover the maximum amount recoverable as a proceed of crime.
- 1.5 We will also work to support and assist other public bodies in endeavouring to do the same.

## 2. **Legislation**

- 2.1 All investigations will be progressed in accordance with either the **Proceeds of Crime Act 2002** (when all offences post date its enactment date of 24<sup>th</sup> March 2003) or **Criminal Justice Act 1988** in all other cases. The purpose of this legislation is to enable the Financial Investigator to establish the extent of the defendants profit from criminal activity by identifying their gain from :-
  - **Particular Criminal Conduct – The offences that they have been prosecuted for following the criminal investigation (e.g. the Housing Benefit overpayment)**
  - **General Criminal Conduct – An assumption based on the balance of probability that the defendants' lifestyle is being funded from crime as no legitimate sources for funding such a lifestyle can be identified.**
- 2.2 Following the conclusion of an investigation where it has been identified that the defendant has profited from Particular Criminal Conduct and (if applicable) General Criminal Conduct we will apply for a Confiscation Order to be made whereby the Court will order them to repay the amount they have obtained – this is known as the **recoverable amount**. The order will be enforceable against all of the defendants' assets, regardless of whether they have been legally obtained or not.

## 3. **Approach**

- 3.1 The Authority undertakes to resource the Financial Investigation Unit within the Fraud Investigation Service (which is placed within the Transformation and Resources Directorate) to enable them to conduct Financial Investigations in accordance with appropriate legislation and policy.
- 3.2 We will ensure that investigators employed within the Unit will undertake rigorous training to enable them to achieve accreditation from the National Policing

Improvement Agency as Financial Investigators and will continue to maintain this accreditation by continuing to meet the appropriate standards required by the Agency.

- 3.3 The Financial Investigation Unit will agree to undertake 2 types of investigation :-
- **Confiscation** – Whereby an investigation will seek to establish whether a defendant has obtained assets by conducting criminal activity.
  - **Money Laundering** – Whereby an investigation will establish whether a defendant has changed the identity of illegally obtained money in an attempt to give the impression that it has originated from a legitimate source.
- 3.4 The Financial Investigation Unit will investigate cases across all parts of the council, in particular those relating to cases uncovered by the :
- Benefit Fraud Investigation Team
  - Internal Audit
  - Trading Standards
- 3.5 The Financial Investigation Unit will also offer the service to other Local Authorities – managed through Service Level Agreements – to support them in the detection and deterrence of fraud and remove the proceeds from crime. All costs incurred in providing this service will be recovered.
- 3.6 The Financial Investigation Unit will work closely and effectively with all associated agencies in the process of their investigations and alert them to any possible criminal activity as appropriate. In particular we will work closely with :-
- Police
  - Department of Work and Pensions
  - Her Majesty's Revenue and Customs
  - Home Office – UK Border Agency
- 3.7 The Financial Investigation Unit will liaise with the appropriate legal departments at all times to ensure that correct legal procedures are being adhered to.
- 3.8 The Financial Investigation Unit will adhere to a strict code of confidentiality and ensure that information is only shared in accordance with relevant legislation at all times. Examples of such legislation are :
- Data Protection Act
  - Proceeds of Crime Act
  - Criminal Justice Act

#### **4. Reporting and Review**

- 4.1 The Financial Investigation Policy will be reviewed by the Investigations Manager on a regular basis. It will be approved by the Audit & Assurance Manager with referral also being made to CMT/Executive for approval if any major material changes to the policy are required.