

# Anglia Revenues Partnership Counter-fraud Strategy and Policies



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# **ANTI-FRAUD POLICY**

## **Introduction**

The Anglia Revenues Partnership ( hereinafter called the ARP ) is committed to, and responsible for, the delivery of Housing and Council Tax Benefit within the Breckland, Forest Heath and East Cambridgeshire areas. Benefits are for those who are most vulnerable in society and should be assessed and paid as laid down by government legislation. The ARP has a duty to minimise the scope for fraud and will endeavour to prevent, detect and stop fraud whilst ensuring that claimants get the benefits to which they are entitled. This will ensure that benefits are taken up by those people who need to access the service.

The ARP understands that some people will attempt to obtain benefits to which they are not entitled. Sometimes this is done with planning and intention. Where intention and planning is involved, the ARP will consider the circumstances of the individual and, where appropriate, will consider prosecution under the appropriate legislation.

The investigation of fraud is a sensitive role for all concerned and must be undertaken at all times with responsibility and tact, remembering that the majority of benefit claims are made honestly and correctly.

Fraud must be treated firmly, without harassment to any individual and with especial care to avoid treating honest people in an unacceptable manner and outside the provisions of the Human Rights Act 1998. In particular due regard will be given to the following provisions of the European Convention of Human Rights:-

- Article 1 of the First protocol: Protection of Property;
- Article 6: Right to a Fair Trial,
- Article 8: Right to Respect for Private and Family Life;
- Article 14: Prohibition of Discrimination.

## **Regulation of Investigatory Powers Act 2000**

The Regulation of Investigatory Powers Act 2000 gives a clear statutory framework for the operation of certain intrusive techniques that may be used in the investigation of offences, to provide for compliance with the Human Rights Act 1998. In particular, this legislation has implications for the ARP where in the course of an investigation into benefit fraud it is considered appropriate to undertake surveillance. In such cases the ARP will ensure that all such actions are taken in accordance with the provisions of Part II of the Act that cover the use and authorisation of 'directed covert surveillance'. RIPA authorisations are granted in accordance with the RIPA policies of the constituent authorities and by their nominated signatories.

## **The Data Protection Act**

The ARP will correctly notify the Data Protection Commissioner in accordance with the requirements of the Data Protection Acts 1998 and 2000. Specific reference will be made to the prevention of crime and prosecution of offenders. This will ensure that the Partnership can legitimately source and disclose information with other organisations during the investigation of fraud.

## **Action on Overpayment of Benefit**

In some instances, benefits or extra benefits will have been obtained from the ARP where there is no entitlement. This may have been done without planning, but with knowledge that changes in personal circumstances may effect benefit entitlement and that the change should have been reported to the ARP. Under these circumstances, the ARP will consider the particulars of the individual case and, where the claimant could reasonably be expected to know that the failure to report the change would cause a fraudulent overpayment of benefit, the ARP will consider prosecution.

Where appropriate, the ARP will consider applying the alternatives to prosecution available within the legislation in the form of the imposition of an Administrative Penalty or issuing a Local Authority Caution.

In some circumstances, it is not in the public interest to take action against a person who has made either a false claim, or has failed to report a change in circumstances, which has resulted in them obtaining benefit to which they were not entitled. In any event the ARP will seek to recover any overpaid Benefit, as set out in the overpayment policy.

## **Landlords and Benefit Payments**

Payments of benefit can in specific circumstances be made directly to Landlords on behalf of the claimant. Landlords who are receiving benefit directly are also obliged to report any changes in their tenant's circumstances, which may affect the tenants' entitlement to benefit. When a Landlord fails to do this, they may be paid more direct benefit than they are entitled to receive. The ARP makes Landlords aware of their duty to report known changes and failure to do so is an offence under the Social Security Administration Act 1992.

The ARP recognises that in some cases Landlords falsify claims or assist claimants to falsify benefit claims.

Where an offence has been committed, the ARP will consider prosecution and will recover any overpaid benefit either directly from ongoing payments of benefit to the Landlord or by civil recovery through the courts. In cases of fraud the ARP may consider it imprudent to continue to pay benefits direct to a dishonest landlord.

#### **Working in partnership with other organisations**

Where necessary, the ARP will work in co-operation with other organisations such as the Police, The Department for Work & Pensions, the Home Office, and the HM Revenues & Customs in order to deal with individual offenders or to combat organised benefit fraud.

#### **Duties and Considerations of Investigation Officers**

When investigating fraud or verifying claims, ARP investigators will work within the guidelines of the Police and Criminal Evidence Act 1984 (PACE) and apply the ARP policies on equal opportunities and customer care. ARP officers will at all times apply appropriate procedures to maintain confidentiality.

#### **Duties and Considerations of ARP staff**

The ARP will require all ARP officers involved in the administration of benefits to report to the Revenues Benefits Manager details of any property that they are renting to tenants within the Breckland, Forest Heath and East Cambridgeshire areas and any claims of benefit to which they have some connection, including where the officer is the landlord, the claimant, a partner, dependant or non-dependant on the application. This will be logged in a Register of Interests file and kept by the Revenues Benefits Manager.

If any revenues officer has knowledge of a claim where they are a close family member, as described in Regulation 2 of the Housing Benefit and Council Tax Benefit General Regulations, then the officer must report this case to the Revenues Benefits Manager.

Gifts and hospitality offered to ARP staff members as a consequence of their role as an employee of the ARP should be reported to a senior officer and registered in accordance with agreed procedures.

Any ARP officer found to be involved in an offence under the Theft Act 1968 or the Social Security Administration Act 1992, or any other criminal offence involving claims of benefit, fraud or theft, either in the ARP, any other Council or the HM Revenues & Customs, Working Age Agency, or The Pensions Agency will be disciplined under the appropriate Council's Disciplinary Procedures, in addition to any prosecution proceedings that may occur.

Where an ARP officer investigating an allegation of fraud abuses their powers, an investigation will take place with a view to taking disciplinary action.

### **Duties and Considerations of Elected Members**

The Partnership Council's will encourage all elected Members to report the details of any property that they are renting to tenants and any claims of benefit to which they have some connection. This may be a claim of benefit where the Member is the Landlord, acts on behalf of the landlord, the claimant, a partner, dependant or non-dependant on the application.

Interest in a benefit claim should be registered in the Register of Interest in accordance with agreed procedures.

### **Protection against Personal Violence and Abuse**

The ARP will take all reasonable precautions to ensure the safety of its staff at all times. The ARP will endeavour to protect staff from physical and verbal abuse and states categorically that such abuse is unacceptable behaviour against members of staff. Reported incidents of violence or abuse will be treated extremely seriously and appropriate action taken to prevent any recurrence.

The individual officers must act sensibly and responsibly at all times to ensure their own protection in potentially violent and abusive situations. If any interview or other contact with a member of the public, appears to be a risk to safety the officer will withdraw immediately.

Safety of staff will take precedence over any other consideration when preventing or investigating fraud.

Visiting Officers should ensure that they abide by the requirements of the Lone Worker Policy.

## **Benefit Administration and Counter-Fraud Action**

The ARP believes that it is important to discourage and prevent fraud from taking place in the first instance. The ARP will implement vigorous procedures for the verification of claims. The minimum standard for verification will be the guidelines given in the Department for Work & Pensions Verification of Benefit Administration Framework as amended. This initiative sets out the information that must be collected and verified before benefit is paid, specifies the minimum standards of evidence to support a claim and the checks that must be made during the life of a claim. Assistance will be given by the ARP to claimants of benefits in completing and applying for benefit and to maximise take-up.

The application form for Housing and Council Tax Benefit will include questions and instructions in plain language giving the customer clear directions as to what is required of them. The form will carry warnings and information, so that the claimants will understand the risks to them should they choose to misinform the ARP of their personal circumstances. The form will contain all the information the customer will require to understand their rights.

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

The ARP is committed to controls designed to prevent fraud being perpetrated by its own staff. Therefore, all staff employed in Benefits administration will be rigorously vetted at the time of application. If misrepresentation is found to have occurred on the application form or interview, disciplinary procedures will be considered.

## **Conclusion**

The ARP is committed to ensuring that people should get all the benefits to which they are entitled, however, it will act against those people who systematically obtain benefits to which they are not entitled. The ARP, in accordance with the overpayments policy, will pursue recovery of any overpaid benefit.

# **ANTI-FRAUD STRATEGY**

## **Introduction**

The ARP Anti-Fraud Policy represents a commitment to implement a robust anti-fraud strategy in order to protect public funds and to ensure that benefits are delivered to those who have a true entitlement to them.

This strategy outlines the mechanisms whereby the ARP will deliver the above commitment to its citizens.

## **Resources**

All Benefit staff are aware of the government targets with regard to the verification of claims by way of interventions and investigation staff are aware of government targets regarding finding fraud and issuing appropriate sanctions.

Assessment and Customer Service officers will be aware of possible fraudulent claims and ensure that information given in support of a claim provides sufficient verification before proceeding to make payments of benefit. These staff should refer to the investigation team any suspicions that they have regarding individual claims. Such referrals will be treated in confidence and feedback given to the assessment officer regarding any resulting action.

The ARP – Compliance Team includes an Investigation Team, whose duties include the investigation of Housing Benefit / Council Tax Benefit where fraud or irregularity is suspected, and a Visiting Team who conducts visits to home and properties to verify claims and property details are correct.

The investigation staff will exercise the powers conferred by Section 110 of the Social Security Administration Act 1992. This authorisation gives powers to require information from persons described in the Act, and, gives powers of entry and inspection to premises as defined. The authority to exercise these powers is renewed annually by the Chief Executive of the Council.

The investigation staff will use this authorisation to communicate with, or interview, persons who may hold information that has relevance to a claim

for Housing Benefit/Council Tax Benefit. Any abuse of these powers will be investigated in accordance with the appropriate Council's disciplinary procedures.

Investigation officers will provide a regular feedback to originating staff on the types of fraud being discovered to encourage further referrals. Investigation officers are required to ensure good liaison arrangements exist between themselves and other revenues staff and also with other Council departments who may be able to provide information that prevents fraud.

### **Training**

The ARP will expect its investigators to be fully trained and to maintain this training. Wherever possible it is desirable for investigators to hold suitable qualifications.

### **Targets**

Targets will be set for the Investigations Team in relation to Sanctions. These targets will be monitored and reported to the ARP Committee.

### **Initiatives**

The ARP will make all efforts to ensure that fraud is prevented and to detect fraud where it has occurred, the following is a list of the current initiatives being undertaken:-

Royal Mail do-not-redirect  
Housing Benefit Matching Service  
Internal Data Matching (Academy)  
Risk Assessments  
Finance Team Audit  
Liaison with DWP through JOB

SLAs (Service Level Agreements)  
Fraud Hotline  
Prosecution Policy  
Claim Checks  
National Fraud Initiative (NFI)  
CIS ( DWP Customer Information System)

Membership of LAIOG  
PinS Trained Staff  
Verification Framework  
Joint Investigation with DWP  
Investigation Team  
Membership of the Ant-Fraud Network (NAFN)

## **The Application Form**

The Housing Benefit/Council Tax Benefit application form will be regularly reviewed to ensure that it asks plain language questions that help the claimant in obtaining benefit. The claim form will make clear to the claimant that misinformation will not be acceptable and could result in them being prosecuted. Mandatory questions will need to be filled in by the claimant or their agent. Failure to respond, within the given time, to a mandatory question will result in the claim being defective and therefore no benefit will be paid.

## **Hotline**

The ARP will access the 'Housing Benefit Fraud Hotline' operated on behalf of Local Authorities by the Department for Work & Pensions and advertise the details to enable members of the public to report allegations of benefit fraud.

## **Publicity**

Publicity will follow a twin-track approach, inviting those who feel that they have an entitlement to benefit to apply, and discouraging those who might seek to defraud the system. All publicity should seek to tell the public that the ARP has an investigation team whose purpose is to investigate fraud and potential fraud and to take legal action against those defrauding the respective Councils.

All impending prosecutions will be referred to the Public Relations/Communications Advisor of the relevant Council so that they may be reported to the media.

## **Fraudulent Landlords**

Whilst the ARP recognises that the majority of Landlords in the district are honest and fair, it also recognises that a few landlords do defraud, or attempt to defraud the Housing Benefit system. Therefore the Partnership Investigators will use the powers under the Housing Benefit (Supply of Information from Landlords) Regulations 1997 to obtain information from Landlords in appropriate cases. These powers will be used reasonably and in compliance with the regulations. Landlords will be expected to comply with requests for information or they will be subject to appropriate sanctions.

## **Whistle Blowing**

The ARP will investigate all allegations of abuse made under The Whistle Blowers Charter. Investigations will be in accordance with the provisions of this charter, in particular, the ARP will have due regard to the confidentiality of the persons involved.

## **Data Matching Exercises**

In addition to participation in the Housing Benefit Matching Service (HBMS) the ARP will also take part in the National Fraud Initiative (NFI) data matching exercise when it is conducted by the Audit Commission.

## **Working in Partnership**

The ARP is keen to undertake specific fraud drives by working with:

- Police
- HM Revenues & Customs
- Pensions Agency
- Immigration Service
- DWP
- Other Councils
- Other internal departments

## **The Use of IT**

The ARP Benefit and Investigations teams will use a computer system to manage fraud investigation, and verification of claims. The system will assist officers by aiding the proper management, monitoring and recording of relevant investigations.

## **Codes of Conduct**

In undertaking an investigation the ARP will observe the Police and Criminal Evidence Act 1984 Codes of Conduct when interviewing suspects and witnesses. Investigators will ensure that persons subject to interview are advised of their rights and that evidence is obtained and secured in accordance with the Act.

## **The Human Rights Act**

The ARP will ensure that actions taken in connection with all aspects of Housing Benefit and Council Tax Benefit are in accordance with the provisions of the Human Rights Act 1998. With regard to allegations of fraud the ARP will all act in accordance with the provisions of the Regulation of Investigatory Powers Act 2000.

## ***PROSECUTION POLICY***

This document is written with reference to:

- The Social Security Administration Act 1992
- The Housing Benefit Regulations 2006
- The Council Tax Regulations 2006
- The Welfare Reform Act 2007
- The Social Security (Fraud) Act 1997
- The Police and Criminal Evidence Act 1984 (PACE)

## **Introduction**

The ARP is committed to the delivery of Housing and Council Tax benefits to its citizens. Benefits are provided to the most vulnerable in society and should be assessed and paid within government guidelines.

The ARP is also committed to protecting public funds through its action against fraud and employs officers to visit, provide help and to investigate suspected, or alleged offences.

The ARP recognises that some people will attempt to obtain benefits to which they are not entitled. Sometimes this is done with planning and intention. Where intention and planning is involved, the ARP will consider the circumstances of the case and individual and, where appropriate, will consider prosecution under the appropriate section of the relevant act.

The ARP is committed to protecting public funds through its action against fraud and employs trained investigation officers who undertake investigations into cases of Housing and Council Tax Benefit where it appears fraud may have been committed.

The Council recognises that to obtain, or attempt to obtain benefit, to which there is no entitlement by fraudulent means is a criminal offence.

## Sanctions

In general the ARP will apply the appropriate sanction in accordance with the following criteria:

- |                               |   |  |
|-------------------------------|---|--|
| <b>Prosecution</b>            | - | Where the overpayment exceeds £2000 and/or other conditions apply to make prosecution the first option.  |
| <b>Administrative penalty</b> | - | Where prosecution is not the first option and the gross adjudicated overpayment is under £2000 and the conditions for penalty action are satisfied.  |
| <b>Caution</b>                | - | Where prosecution is not the first option and the gross adjudicated overpayment is less than £2000 and the circumstances of the offence and the offender indicate that this is the appropriate sanction. |

Where relevant benefits administered by the Department for Work & Pensions (DWP) are also in payment the Investigator will liaise with the Fraud Investigation Service of that agency in order that where possible a joint investigation can be conducted. In such cases, for the purpose of deciding on the appropriate sanction, when there has been more than one benefit in payment over the same period, the combined total overpaid benefits will be considered. Where following a joint investigation with the DWP the case appears appropriate for a prosecution to be commenced the case will be led by the DWP and their Solicitors who will be responsible for the prosecution. Where the decision is taken by the DWP not to commence proceedings the ARP will consider whether there are sufficient grounds for commencing proceedings solely in connection with Housing and Council Tax Benefit offences.

## Standard of Evidence

Where offences are disclosed by an investigation the ARP will consider the circumstances of the case, in accordance with this policy, and apply the appropriate sanctions.

Where an Officer has investigated a claim for Housing or Council Tax Benefit, and it is considered that sufficient evidence has been obtained to support a prosecution against the claimant, the papers will be referred to the Compliance Team Manager for consideration.

Where it is considered that sufficient evidence exists to support a prosecution but, due to the circumstances of the particular case, it is considered that a sanction other than prosecution is appropriate, the Compliance Team Manager will authorise that sanction in accordance with this policy.

Where the evidence obtained and the circumstances of the case indicate that a prosecution is the appropriate sanction the Compliance Team Manager will forward the case papers to the ARPs' Prosecuting Agents ( Harris Cuffaro & Nichols Solicitors ). These Solicitors will review the evidence and having done so commence proceedings on behalf of the ARP. Where the Solicitors consider that an alternative sanction to prosecution is appropriate they will return the case papers to the Compliance Team Manager with their recommendation.

The ARP is conscious that a decision to prosecute an individual is serious and that, even in a small case, a prosecution has serious implications for all involved. Decisions to prosecute should be fair and consistent.

The ARP will use the most appropriate deterrent against future fraudulent activity. This requires each referred case to be looked at on its individual merits making reference to any previous sanctions or convictions, before deciding on any further action.

Sanctions will only be considered where it is believed a prosecution could be brought and, where an interview has taken place, it has been conducted in accordance with PACE.

In general terms, the more serious the offence the more likely it is that a prosecution is in the public interest.

A prosecution is likely to be considered where:

- a conviction is likely to result in a significant sentence;
- the accused was in a position of trust or authority;
- the evidence shows that the accused was a ringleader or organiser of the offence;

- there is evidence that the offence was premeditated;
- there is evidence that the offence was carried out by more than one person;
- 
- the previous convictions of the accused or cautions are relevant to the present offence;
- the accused is alleged to have committed the offence whilst under an order of the court;
- there are grounds for believing that the offence is likely to be continued or repeated, for example by a history of recurring conduct;
- the offence is widespread in the area, although not serious in itself;

A prosecution is less likely where the following applies:

- the loss is described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- there has been a long delay between the offence taking place and the date of the trial, unless:
  - The offence is serious;
  - The delay has been caused partly by the accused;
  - The offence has only just come to light;
  - The complexity of the offence has meant that there has been a long investigation;
- A prosecution is likely to have a bad effect on the victim's health – this will be balanced against the seriousness of the offence;
- The defendant is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is a real possibility it may be repeated.

In all cases consideration will be given to the offenders frailty, mental health at the time of the offence, and since, and previous convictions (including formal cautions). Details of previous convictions will be obtained from the Department for Work & Pensions (DWP) or from Police records.

As required the ARP will advise the Police of all impending prosecutions in accordance with agreed procedures using the prescribed forms. As a consequence the Police will advise the ARP of previous convictions recorded against the defendant in order for presentation to the Court. At the conclusion of the case the ARP will advise the Police of the result, again using the prescribed forms.

As a requirement of the relevant acts and government initiatives, details of any sanctions issued will be forwarded, on the prescribed form to the DWP. Previous Formal Cautions and prosecutions will be cited in court.

## Fraud Investigation

An investigation carried out by investigation staff has four important functions.

1. To establish the facts;
2. To gather sufficient admissible evidence to support a sanction;
3. To gather sufficient admissible evidenced to support a prosecution;
4. To gather and collate information to enable the correct claiming of subsidy.

Such an investigation will only be considered where it is in the public interest to do so. In the majority of fraudulent cases the fraud investigation will reveal facts that question the validity of the Benefit in payment, as a consequence the benefit may be suspended or cancelled. The withdrawal of Benefit may be sufficient in itself to conclude the investigation.

## Formal Cautions

Formal Cautions will be administered wherever fraudulent activity has been proven but is at the lower end of the range of benefit fraud. Formal Cautions will only be given where a person is over 18, has committed an offence and:

- There is sufficient evidence to justify criminal proceedings;
- The person has admitted the offence during an Interview under caution;
- The person's history of previous convictions has been taken into account;
- The person must sign a document to show they admit the offence;
- The person agrees to the caution and they acknowledge they have been cautioned.

**The standard of evidence used for a formal caution will be the same as required to prosecute.** If a formal caution is refused the case will be put forward for prosecution and the court will be informed of the refusal to accept a formal caution. In general, the Compliance Team Manager will administer the formal caution, as provided by Benefit Fraud Inspectorate guidance. Where a person has moved into another Authority's area before the caution can be conducted, the fraud file will be transferred to the relevant authority with a request to continue any formal caution action.

At the time of the caution being administered the accused will be required to sign a separate statement admitting the offence and accepting the formal caution.

A formal caution will in general be considered appropriate if the following apply:

- The offence is minor, the amount of overpayment is under £2000 and the court is likely to award a minimal sentence;
- The person has not offended before or the person has committed benefit fraud before but the offence was minor, the person was not cautioned or prosecuted and the current offence is also minor;
- The person's attitude towards their offence indicates that a caution would be an appropriate punishment – consider:
  - The wilfulness with which the person committed the offence; and,
  - Their subsequent attitude, i.e. whether they express genuine regret for what they have done;
- There is a reasonable expectation that this will curb his/her offending.

Therefore, a Local Authority Official Caution may be considered where the requirements for prosecution have been fulfilled and the overpayment is under £2000 and any of the following criteria apply:

- It is a first offence;
- It is not a first offence but previous offences comply with the above criteria;
- Criminal proceedings are not recommended in this case.
- 

In the event of the claimant declining to accept a local authority official caution, criminal proceedings will always be considered.

The issue and acceptance of a formal caution will be logged with the DWP central database.

## **Administrative Penalties**

The legislation governing administrative penalties is contained in section 115A of the Social Security Administration Act 1992, as inserted by section 15 of the Social Security Administration (Fraud) Act 1997 and the Social Security (Penalty Notice) Regulations 1997. Administrative Penalties have no standing as previous convictions in court. Therefore if a person has previously agreed to pay an administrative penalty for an earlier overpayment this cannot be mentioned in court.

An Administrative Penalty may be considered where the requirements for prosecution have been fulfilled and the following criteria apply:

- The overpayment is under £2000, and
- it was a first offence, and
- criminal proceedings are not recommended in this case.

In consideration of whether an Administrative Penalty is appropriate the following must be considered:

- The requirement to pay the penalty will cause unreasonable hardship;

This provision is in accordance with the Social Security Administration (Fraud) Act 1997, this Act authorises Local Authorities to administer such a penalty and the penalty is set at 30% of the overpayment of benefit fraudulently obtained. The ARP will recoup the Administrative Penalty in the same way, and in addition to, the overpaid benefit.

In the event of the claimant declining to agree to pay an Administrative Penalty, criminal proceedings will always be considered.

The issue and acceptance of Administrative Penalties should be logged with the DWP central database.

## Prosecutions

A prosecution will be considered where the following criteria apply:

- 1) The overpayment is over £2000, **or**
- 2) The person has declined the offer of a Local Authority Official Caution or administrative penalty or has withdrawn their agreement to pay an administrative penalty, **or**
- 3) other factors make prosecution appropriate such as:
  - The fraud has continued over a long period, **or**
  - The person has been previously convicted of benefit fraud, **or**
  - The person has previously been the subject of an Administrative Penalty procedure, **or**
  - There was planning involved in the process, **or**
  - The person was in a position of trust (e.g. a member of staff) **or**

- There were other persons involved in the fraud, **or**
- The case has arisen from a collusive landlord/employer investigation, **or**
- Other aggravating factors.

### **General considerations**

It is acknowledged that there will be cases that do not fall within any of the aforementioned categories or possess aggravating factors. All cases will be considered on their merits and the action considered appropriate taken in each case.

### **Conclusion**

The Policies set out herein outline the main areas the ARP will consider when dealing with potentially fraudulent actions.

The ARP supports the firm and vigorous pursuit of fraud, but recognises that this should be done in a reasonable and professional manner that respects the innocent, deals appropriately with offenders and protects the safety of every member of staff.