

Benefits Team

Housing Benefit and Council Tax Benefit Fraud Investigation Policy / Procedures and Codes of Practice



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High Peak Borough Council

www.highpeak.gov.uk

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1.1 Introduction

1. The Council understands the importance of anti-fraud activity as a means to ensure that only those, who are entitled, receive help. We fully subscribe to this policy, as it runs in parallel with the Council's aims and objectives.

2. High Peak Borough Council has day to day administrative responsibility for the proper administration of the benefits schemes and wish to be recognised as a centre of excellence.

3 Part of the overall responsibility includes the prevention, detection and prosecution, where appropriate, of benefit fraud. The Council is determined that it both supports national initiatives and is effectively organised so that the scope for fraud within the Borough is kept to a minimum.

4. To that extent, the Council will ensure that:

The opportunity to commit fraud is limited by the effective use of trained resources and control systems;

Claims for benefit are verified to an exacting and consistent standard;

Claims are regularly reviewed, according to risk profiles;

Allegations of fraud are thoroughly investigated and pro-active exercises are undertaken; and

Sanctions are applied that reflect the seriousness of the case, the individual claimant's personal circumstances and the potential impact, in the public interest, of the sanction applied.

1.2 Role of the Service

1. The role of our Service is to strike the balance between supporting the Council's strategic aims and objectives to improve the quality of life in the community, yet, at the same time, minimise the potential for fraud. To do this, we will:

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Pay the correct amount of benefit to people who are entitled to receive it;

Ensure that changes of circumstances are prioritised;

Detect fraud and error, and take remedial action without delay;

Monitor and plan the activities of the Service, looking for continuous improvement;

**Promote and actively support a culture of zero tolerance towards benefit fraud within the organisation and the Borough;
and**

Apply this policy fairly and equitably, regardless of race, religion, ethnic or social standing, or grouping.

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2.1. Reporting Fraud

1. All our employees have a duty to report any cases of suspected fraud to the Investigations Officer, or Fraud and Interventions Manager.
2. The Council's policy on fraud, generally, is set out in the leaflets entitled **Stop Fraud**. Our arrangements support this policy in its entirety.
3. Our employees have a number of responsibilities to ensure that the reporting of suspected fraud is neither malicious nor based on personal motives. As such, staff must ensure that:
 - They act impartially at all times;**
 - Their actions can reasonably be justified;**
 - Their actions are based on strictly professional motives;**
 - They take care to avoid accusations of the disproportionate targeting of community groups or individuals; and**
 - Both the Council's Customer Care Code of Conduct and its Equal Opportunity statement underpin any activity under this policy.**
4. Staff are required to use the Fraud Referral sheet at Appendix 1

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3.1 The Fraud Investigation

1. Our staff should be aware that the nature, content and promptness of a fraud referral will have a significant impact on the action that may be taken by the investigation team and the potential for success in closing the case.
2. We will ensure that **100% of our staff** are PINS and RIPA trained.
3. Our investigators will, from the outset:

Effectively plan the investigation;

Maintain a comprehensive activity log;

Follow specifically the Council's code on conduct for fraud investigators and any other relevant policy or operational guideline;

Keep within the law at all times as regards:

- Interviews;
- Observations;
- Access to records;
- Data protection; and

Maintain absolute confidentiality at all times.

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4.1 Information and Record Keeping

1. In order to maintain a comprehensive activity log, our investigators will:

Use the recommended notebook (QB50) for all investigation purposes;

Maintain meticulous records of everything that take place in the course of their investigation;

Record such information on the Council's fraud management system;

Record all information in a full and factual manner;

Ensure that files and notes are, so far as possible, contemporaneous, dated and timed; and

List all documents obtained during the investigation on the fraud management system, or retain them in the customer fraud file, or in a discrete area on the management system.

2. During the course of their activity, we acknowledge that our investigators will make use of the following systems:

Electoral Register;

Council Tax and Business Rates Collection Office;

The Housing Department;

Place of Employment;

Department of Works and Pensions (DWP);

Inland Revenue;

Pension providers;

Home Office; and

Police.

4.2 National Anti-Fraud Network (NAFN)

1. We will work closely with the Network (NAFN), whose role it is to obtain, collate and inform investigators, with information relating to fraud enquiries.

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4.3 Housing Benefit Matching Service (HBMS)

1. We will monthly provide and receive information about data submitted by the Housing Benefits Office against Department of Works and Pensions (DWP) data, and data from other government departments.

4.4 National Fraud Initiative (NFI)

1. Every two years, we will provide and receive data from the Audit Commission of matched cases, submitted by us, against data held by other councils, and the private sector.

4.5 Joint Working

1. At all times, we will be committed to working alongside our counterparts in the Counter Fraud Investigation Service (CFIS), when investigating customers who are receiving Income Support, JSA and other benefits, paid by the Department of Works and Pensions.
2. We will utilise the prescribed stationery at all times

4.6 Redirection of Mail Service

1. The Service endorses the use of the Redirection of Mail Service for all outward bound mail.
2. Envelopes returned and marked by the Royal Mail, as 'gone away'; with a forwarding address will be passed to the investigators for action.

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5.1 Code of Conduct for investigation and visiting officers

All staff involved in the investigation of benefit fraud must comply with the Council's agreed code of conduct. This represents the minimum standards and requirements expected of investigation officers. Any breach of the code may result in action under the Council's disciplinary procedure

1. Legislation

Investigators must at all times comply with:

- Fraud Investigators Manual
- Codes C and E of the Police and Criminal Evidence Act
- Sections 110A and 110B of the Social Security Administration Act
- Data Protection Act
- Regulation of Investigatory Powers Act

2. Customer Care and Etiquette

Investigators will reflect a professional image at all times. They will treat customers with courtesy and respect, and be polite and tactful, and use their skills to diffuse any aggressiveness or distress.

Particular attention should be taken to ensure that a customer is not discriminated against on grounds of marital status, race, colour, creed, religion, disability, age, sex or sexual orientation.

All correspondence issued must show a direct telephone number and a name, and an answer-phone facility should be available, whenever possible.

The investigator must respect a customer's right to privacy and provide separate interview facilities for that purpose.

When visiting customers at their home address, investigators will always carry identification and, when visiting employers, they must carry their Section 110A 'Authorised Officer' card.

They must be smart in their appearance, unless the investigation requires a more casual appearance

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3. Professional Standards

Investigators will inform their line manager of any referral they receive, where a conflict of interest may exist, or if their professional integrity could be questioned, e.g. the person accused is personally known to them, or they receive income from a person involved in the allegation.

Investigators must not, under any circumstances, use any information that has been obtained in confidence, in the performance of their duties, for any private gain.

They must ensure that they are fully conversant with the knowledge, skills and technical ability to allow them to conduct their professional duties to the highest standards. Investigators should have achieved the 'Professionalism in Security' qualification.

All information gathered or received during the course of an investigation is confidential and must not be disclosed to any unauthorised third party.

An investigator must not enter a property unless invited to do so, unless a warrant card has been issued in exceptional circumstances.

4. Health and Safety

Investigators must have a mobile phone and panic alarm.

All anticipated visits to customers' home addresses must be listed in order and given to a member of staff, prior to the investigator's departure from the office.

Arrangements must be made for the investigator to telephone in at a pre-arranged time to confirm they are safe and to advise of their whereabouts.

Where a customer is known to be potentially violent, the investigator must be accompanied by another officer.

All attempts should be made to refrain from visits out of work hours, or in the dark. If it is necessary, the visits should either be accompanied or there must be office back up.

The investigator should think carefully about leaving a property quickly, and bear this in mind when sitting in the customer's home and when parking their car. If they feel any signs of threat, aggression or assault, they must leave the premises immediately.

All interview rooms should be fitted with a panic alarm.

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6.1 Surveillance

1. From time to time, the Council will have to carry out, as part of its anti-fraud activities, surveillance of property or individuals.
2. Approval for such an operation may only be given by a properly authorised officer and the decision will be based on the facts of the case, supported by evidence from an investigation officer's case file.
3. Once approved, the surveillance operational will be conducted in accordance with operational procedures and the relevant legislation:

**The Human Rights Act 1998;
Regulation of Investigatory Powers Act 2000 (RIPA); and
Data Protection Act 1998.**

4. All RIPA Surveillance records must be kept by the Legal Department to ensure necessity and proportionality, and enable a Solicitor to monitor the forms and their timescales.

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7.1 Interviews under Caution

1. We will ensure that this code of practice is available at High Peak Council Offices for the use of staff and for consultation by members of the public.
2. The investigating officer may require to interview a customer under caution, in accordance with the Police and Criminal Evidence Act (1984) Code of Practice, as part of his/her investigation, to get the facts of the offence.

The PACE Code states:

“A person whom there are grounds to suspect of an offence, must be cautioned before any questions about (or further questions if it is his/her answers to previous questions which provide the grounds for suspicion) are put to him/her regarding his/her involvement, or suspected involvement, in that offence if his/her answers or his/her silence (i.e., failure or refusal to answer questions or to answer satisfactorily) may be given in evidence to a court in a prosecution. He/she therefore need to be cautioned if questions are put for other purposes, for example,, solely to establish identify.”

Further guidance notes can be found in the DWP Fraud Investigators Manual, and full details of how the interview is to be structured, are set out in the PEACE Model (preparation and planning, engage and explain, account, clarification and challenge, closure, evaluation).

8.1 Closure of an Investigation

1. At the conclusion of an investigation, we will ensure that a full report is drawn up with one of the following recommendations, that:

Fraud has been committed;

Fraud has not been committed, or that there is

Insufficient evidence to determine whether or not fraud has been committed

2. Where a case is closed with a recommendation that fraud has been committed, we will ensure that we obtain sufficient additional information that will allow us to give full consideration to the level of sanction to be applied.

3. We will also ensure that a case file is prepared to the same standard, as if it was to be presented to a court.

The file will contain a front sheet, giving details about the customer and the offences committed, and a memo stating the allegations against the customer, together with information about the customer's circumstances.

An investigator, who was not involved in the interview under caution, will adjudicate on whether a sanction is to be applied and take the appropriate action.

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9. Sanctions

9.1 Formal Caution

1. We will consider a formal caution where

The customer has been overpaid, but their circumstances do not warrant a criminal prosecution, or their financial circumstances would make an Admin penalty unsuitable;

There is sufficient evidence to justify instituting criminal proceedings;

The person has admitted the offence during an IUC;

The person's history of previous convictions has been taken into account;

The person has signed a document to show he/she admits the offence; or

The person agrees to the caution and they acknowledge they have been cautioned.

2. We will consider not administering a caution to an offender in circumstances where there is no reasonable expectation that there will not be any further offences.

3. Cautions will not be given to people under the age of 18.

4. Only in exceptional circumstances will further cautions be issued.

9.2 Administrative Penalty

We will consider an administrative penalty where:

The customer has been overpaid, but his/her circumstances do not warrant a criminal prosecution;

There is sufficient evidence to justify instituting criminal proceedings;

The person's history of previous convictions has been taken into account;

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**The person signs to agree that he/she accepts the penalty; or
The person has the ability to pay the penalty and the overpaid benefit
within a reasonable period.**

9.3 Prosecution

1. We will consider prosecution in those cases where we consider the matter to be in the public interest.

In addition we will take into account:

Whether there is sufficient admissible evidence to justify the laying of information;

Whether the prosecution meets the criteria in the Council's Enforcement Policy;

The overpayment is sizable;

If fraud has been committed over a long period of time;

If the person was in a position of trust, for example, a member or officer of the Council; or

Any evidence of collusion with a landlord or employer.

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10.1 Management Checks and Controls

1. Management checks and controls in the team are essential to identify how well, or otherwise, the Team is doing and how it is contributing to securing the Service. Such information as is produced will feed into regular reports on performance within benefits generally

We will carry out management checks that will ensure the quality of the service such as:

A referral justified opening a fraud investigation file;

The file contains a rational allegation that outlined sufficient grounds for suspicion of fraud;

The investigation was carried out correctly and that all avenues have been explored;

All actions are properly recorded, dated, signed as they occur and are legible;

The file is properly ordered and cross referenced;

There is a summary of the investigation and conclusion reached;

All sanction rewards recorded on the Weekly Incorrect Benefit (WIB) form WIB5 are relevant and accurately calculated, and recorded; and

All legislation has been adhered to during the investigation and interview.

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11.1 Statistical Information

1. We rely on statistical data to map performance in our Service and to identify potential risks where there is an increase in fraud activity in locations, by casework groups or by fraud type.
2. We will analyse such information, as may become available, to target our resources, if considered necessary, with regard to the risk to the council.
3. Where we carry out such activity, we will ensure that the results are given wide publicity, as a means to deter others from attempting to defraud the system.



Report of Suspected Fraud

My Ref fraud /
Your Ref XXXXX
XXXXXXXXXX
XXXXXXXXXX

From Benefits Service

To Investigating Officer

XXXXXXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXX
XXXXXXX
XXXXXXX

National Insurance Number: XXXXXXXX

Date of Birth: XXXXXXXXXX

TYPE OF SUSPECTED FRAUD

DATE SUSPICION AROUSED

REASON SUSPICION AROUSED

Triggered by New Claim / Visit / Repeat Claim / Post Check / Other

DESCRIPTION OF CLAIMANT

HEIGHT BUILD HAIR

DESCRIPTION OF PARTNER

HEIGHT BUILD HAIR

VEHICLE DETAILS MAKE MODEL

COLOUR REG NO

OTHER REMARKS

Signed _____ Section _____ 24 Sep 2003

Land Registry Check Council tax Check Electoral Register Check