



## **Housing Benefit Fraud Service – Financial implications of transfer of services to DWP**

### **SUMMARY**

- 1.1 The roll out of a Single Fraud Investigation Service (SFIS), covering all welfare benefit fraud, began in 2014.
- 1.2 SFIS is administered by the Department for Work and Pensions (DWP) and when fully rolled out it will provide a national service to tackle all welfare benefit fraud. It brings together welfare benefit fraud investigations currently undertaken by DWP, local authorities (LAs) and Her Majesty's Revenue and Customs (HMRC). This includes Housing Benefit (HB) investigations currently administered by the Council.
- 1.3 As a result of SFIS the Council's fraud team will move across to DWP when it is implemented locally.
- 1.4 SFIS is being rolled out gradually, and will be introduced in Derby in December 2015.

### **RECOMMENDATIONS**

- 2.1 To note the financial implications/budgetary pressures highlighted in the attached report (see Appendix 1).
- 2.2 To approve the high level action plan for the transfer of staff, services and responsibilities to the DWP (see Appendix 4).

### **REASONS FOR RECOMMENDATIONS**

- 3.1 To highlight forthcoming budgetary pressures.
- 3.2 To ensure the efficient transfer of the HB fraud team to the DWP.

### **SUPPORTING INFORMATION**

#### **Background and context**

- 4.1 SFIS is being rolled out by the DWP at the same time that the national implementation of Universal Credit (UC) begins to gather pace. UC will replace a number of in-work and out-of-work benefits for those at working age (known as "legacy benefits"), including HB. UC will be administered by the DWP and national roll-out began for new

claims, initially for single job seekers only, from February 2015. The Government has indicated that nationally it could take until around 2019 for all the affected claimants to be transferred over to UC. Derby will become part of the national roll-out between December 2015 and April 2016.

- 4.2 SFIS will be rolled out to Derby in December 2015. This means that from December 2015 any fraud investigations for HB cases, including those the Council currently administers, will be conducted by SFIS staff at the DWP, not Council staff. This will present a number of financial and operational challenges, because the Council will continue to administer HB for many claimants for some time to come, despite the on-going UC roll out. For example pensioners will remain on HB beyond 2019, as UC is only for those at working age.
- 4.3 The full implications on the Council known at this time are outlined in Appendix 2. The information provided relating to financial implications is based on estimates and assumptions at this point; we will be able to clarify these figures as the SFIS deadline approaches.

#### **Non-benefit fraud activities**

- 4.4 The HB fraud team conduct a number of non-benefit fraud related activities which have value to the Council and community across a number of issues. A full list of activities is recorded in Appendix 3.
- 4.5 The fraud team currently influence and steer the audit and recovery work of other teams by participating in a network of information and support. This ensures that fraud investigations are conducted efficiently and are underpinned throughout by professional expertise; by signposting fraud issues that may impact other teams.
- 4.6 The Council has recently submitted a bid to the DWP under its Fraud and Error Incentive Scheme (FERIS) to request funding for 2015/16 for extra processing resource and systems support, to improve performance in finding Fraud and Error (F&E) in the HB caseload. If successful, the Council will ensure that the existing links with non-benefit fraud related activities are maintained, in order to offset the impact of SFIS in the short-term.

#### **SFIS roll out experiences from other Local Authorities (LAs)**

- 4.7 To plan the development of Derby's SFIS action plan, we have researched the experiences of other LAs that have already transferred their HB fraud teams to SFIS.
- 4.8 Feedback and recommended good practice from these authorities has been added into the plan.

<b>OTHER OPTIONS CONSIDERED</b>
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- 5.1 To do nothing – this is not an option as SFIS is part of the national Welfare Reform changes and DWP set the timetable.

**This report has been approved by the following officers:**

<b>Financial officer</b> <b>Legal officer</b> <b>Human Resources officer</b>  <b>IT</b> <b>Service Director(s)</b> <b>Other(s)</b>	Toni Nash, Head of Finance, Adult, Health and Housing and Resources Olu Idowu, Head of Legal Services, and Paul McMahon, Principal Lawyer Liz Moore, Acting Head of HR and Diane Sturdy, Acting Head of Organisational Development, Employee Relations and Pay & Reward Strategy Lynda Innocent, Head of Information Software Support Bernard Fenton, Head of Customer Service Richard Boneham, Head of Governance and Assurance John Massey, Head of Benefits and Exchequer Services Ann Webster, Lead on Equality and Diversity
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<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Dawn Hallsworth, <a href="mailto:dawn.hallsworth@derby.gcsx.gov.uk">dawn.hallsworth@derby.gcsx.gov.uk</a> telephone 01332 643201 Appendix 1 – Implications Appendix 2 – Funding Impacts Appendix 3 – Non-benefit related fraud activities Appendix 4 – SFIS Transition Plan
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## IMPLICATIONS

### Financial and Value for Money

- 1.1 The worst case financial impact of SFIS is **£159,000**, although the exact figure is unknown at this time as the roll out has not yet taken place. The amount of HB fraud identified as at February 2015 in this financial year was £340,193. Under the present subsidy rules we would receive 40% subsidy from DWP, that is, **£136,000**. This may be lost once SFIS is rolled out, as it is difficult to know how successful the new organisation will be in identifying possible cases of fraud. The further £23,000 to total £159,000 is explained in 1.2.
- 1.2 There should be no impact in terms of the administration grant, as the loss of funding relating to the current fraud team will be balanced by the loss of the team as they move to the SFIS. This, of course, cannot be guaranteed as this is dependent on DWP reducing the grant by a similar amount.

### Legal

- 2.1 DWP states that the Transfer of Undertaking (Protection of Employment) Regulations ("TUPE") do not apply to this operation. We have not considered whether that decision is correct (parties cannot apply/waive TUPE, it either applies as a matter of law, or it does not). However, DWP confirmed (letter of 3 March 2014) that it is committed to taking employees currently assigned to welfare benefit fraud investigation work. The Cabinet Office Statement of Practice ("COSOP") for Staff Transfers in the Public Sector says that, in circumstances where TUPE does not apply in strict legal terms to transfer between different parts of the public sector, the principles of TUPE should be followed so far as possible, in accordance with business need. Therefore, in order to maintain an effective fraud investigation service, DWP has decided to adopt this principle. Local Authority investigation of Housing Benefit fraud and residual Council Tax Benefit fraud is the work which will transfer to DWP. Employees assigned solely or primarily to this activity should be identified for a potential transfer to DWP.

### Personnel

- 3.1 As a result of the DWP's adoption of COSOP, we anticipate that 3.5 FTE staff will transfer to the DWP on 1 December 2015 via the transfer of administrative functions between public administrative authorities. Employees transferring will have 'TUPE like' protection and their terms and condition protected on transfer.
- 3.2 Existing grades and terms and conditions for staff will be protected when they transfer, by virtue of the 'TUPE-like' scheme. In recent authority transfers the DWP has honoured the commitment to protect the terms and conditions of transferring staff. There is nothing to indicate that the position will change prior to the transfer of the Council's staff to the DWP.

- 3.3 Legal staff will no longer be required to do prosecution work on HB cases. At present this work is done by two Derby City Council staff, and this work accounts for a small percentage of those officers' time. It seems likely, based on other LAs' feedback that prosecution work that has already started on HB cases at the point that the transfer happens, will continue to be handled to conclusion by the Council's solicitor.
- 3.4 A Single Point of Contact (SPOC) role will be required, to manage the two-way sharing of data needed between the Council and the SFIS to facilitate the on-going investigation of HB fraud.

## **IT**

- 4.1 The SFIS Case Migration process involves the safe and secure transfer of live HB / CTB case documentation from the Council to the DWP. Case documentation (taken from the Northgate Information@Work system) will be forwarded to the DWP's Fraud and Error Service by the use of an encrypted pen drive or encrypted hard drive. To support this method of transfer the Council will need to ensure there is one or more PCs enabled to download data on to an encrypted pen drive or encrypted hard drive provided. This will be required for the migration period only (up to four week window prior to the transfer). The Council's IT team has been made aware of this requirement but does not have details of how the extract will be derived from the Northgate system. Northgate has been approached for details but has not been able to provide advice on this as yet.
- 4.2 The database used by the fraud team to manage their casework (FIMS) will no longer be required once staff transfer. The Council entered into a contract until March 2018 for support and maintenance of the Northgate products, which includes FIMS; the Council cannot therefore make a saving on this even when the service is decommissioned. Northgate has indicated that support for the FIMS product will end from July 2015. The only options to continue to get value from the Northgate contract would be to redeploy the Northgate Information@Work licences that are currently used by the fraud team; we could also ask DWP if it would cover the cost of any loss of value as it has occurred due to the implementation of SFIS. It is not yet clear how data from FIMS might be migrated to DWP, should it be required.
- 4.3 Once the fraud team transfer to the DWP their DCC user accounts will need to be closed.

## **Equalities Impact**

- 5.1 The Service Level Agreement between the Council and the DWP will contain our expected standards of equality. In addition we will make sure that any disabled employees transferred under TUPE receive any reasonable adjustments from their new employer.

## **Health and Safety**

- 6.1 None.

## **Environmental Sustainability**

- 7.1 None.

## **Property and Asset Management**

- 8.1 No implications.

## **Risk Management**

- 9.1 Data transfer arrangements during and after migration - the DWP requires the Council to identify a Senior Responsible Officer to approve and endorse the movement of relevant data from the Council to the DWP during the migration period. This officer will be the Head of Benefits and Exchequer Services.
- 9.2 Performance management - a Service Level Agreement will be set up between the Council and the DWP to ensure that HB fraud investigations are conducted by the DWP in a timely manner and to acceptable standards, for the Council.
- 9.3 The Council's subsidy position could be at risk if robust procedures are not in place in instances where benefit continues to be paid out when investigations are in progress, and fraud is established. It is imperative that claims are cancelled promptly when this happens so communications from the SFIS must be timely, and processes must be in place at the Council to ensure that claims are cancelled promptly to avoid lost subsidy due to local authority error. This will be logged in the Council's transition plan to ensure the risk is minimised.

## **Corporate objectives and priorities for change**

- 10.1 None.

## Funding Impacts

### (a) The administration grant

The Benefits administration grant received from Central Government is used by the Council to administer HB, including fraud.

This has been reduced year on year, however does help to contribute to the Council's costs.

Details of the administration grant are shown in the following table.

Financial year	Amount of administration grant
2013/14	£1,878,014
2014/15	£1,354,001
2015/16	£1,233,800

The total cost of administering HB is £1,885,336.

### (b) Subsidy

The Council is reimbursed for HB paid out to claimants in the form of subsidy.

In cases where potential fraud is suspected, once it has been investigated there are two possible outcomes. Either it will be not proven, in which case the matter will be closed, or will be proven, in which case the overpaid HB will be recovered.

Where a claimant has received HB payments but should not have done so as the claim was fraudulent, the Council receives a reduced subsidy of 40% for the HB paid. This is because the Council made the payment in good faith based on the information given, that is, payment was not made in error.

Consequently if the Council subsequently recovers that benefit payment, which is in essence overpaid, the Council receives that repaid money on top of the HB subsidy that was paid out. This is therefore additional income for the Council.

The transfer of staff to the SFIS will have a financial impact to the Council because of the change to the arrangements for handling fraud that will occur as a result.

The change is illustrated here:

<b>Task to be done</b>	<b>Task done by (current process)</b>	<b>Task done by (new process)</b>
Fraud suspected and referred for investigation	Benefits processors	Benefits processors
Fraud investigation conducted and outcome reached	Fraud officers	SFIS
HB overpayments raised where fraud has been established	Benefits processors	Benefits processors
HB overpayments recovered (and revenue raised for the Council)	Benefits processors / HB overpayment recovery team	Benefits processors / HB overpayment recovery team

Whilst the process changes only slightly, in terms of who does the investigation, the Council's income will be impacted because it cannot control the SFIS' priorities.

It is difficult to quantify what this lost income will be as we cannot say at this stage how SFIS will perform, but has been estimated at £159,000 based on the position as at February 2015.

This is important because there will always be a gap between the HB paid out and subsidy claimed. This is because the HB scheme is structured so that, if the Council pays above the Rent Officer's decision, for example, to meet rent for our vulnerable claimants in Supported Exempt Accommodation (where extra care and support is provided), the Council will only receive subsidy to the value of the Rent Officer's decision.

The overpayment recovery has in the past helped to bridge that gap.

<b>Financial year</b>	<b>Subsidy claimed</b>	<b>HB paid</b>
2013/14	£87,441,229	£89,510,620
2014/15	£91,712,288	£93,603,784



**Non-benefit related fraud activity**

The following non-benefit related activities are currently carried out by the HB fraud team. If the Council's bid for funding under the FERIS scheme is successful we will ensure that the existing links with non-benefit related fraud activities are maintained, in order to offset the impact of SFIS.

- Housing tenancy fraud
- Responding to queries from external organisations – mainly the Police
- Enquiries from other local authorities regarding electoral roll, Business Rates and Council Tax
- To support the activities of the local Roma Complex Cases Group
- Local Welfare Provision (known locally as Local Assistance Scheme) fraud investigation work
- Investigating referrals relating to Council Tax and Business Rates work
- Co-ordinating with the local Organised Crime Group
- Supporting the work of the local Rogue Landlord Initiative – to support the work being done locally to address the problem of sub-standard housing and also identifying criminal activity the landlord may be involved in
- Council Tax Support (CTS) fraud investigation

The removal of the benefits fraud team who currently link in with various teams and organisations concerning the activities above, could impact negatively on the potential revenue lost as a result of non-benefit related fraud being committed. The overall cost of this fraud has not been calculated, although as an illustration during 2013/14 there were 20 cases of CTS fraud found, with a total value of **£23,000**. This was achieved using around 0.2FTE within the current fraud team.

**Case study – Non-benefit fraud activity**

The role of the Fraud Manager in the human trafficking case, Operation Attwood, was to provide intelligence about the suspects and their associates.

There were 12 victims and four offenders convicted.

Extensive information was established from the Revenues and Benefits database that provided pivotal evidence which connected the suspects and other associates.

Intelligence gathering requires experience of identifying the relevance of information to an enquiry and exploring all aspects.

The Fraud Manager provided the information in admissible witness statements which formed part of the key evidence on which the suspects were convicted.

The operation was over a period of months and involved an intensive period of approximately 2/3 weeks when statements were needed.

The offenders pleaded guilty as the evidence against them was compelling.

The Fraud Manager received a personal Commendation from the Chief Constable of Derbyshire Constabulary as a result of the work done in connection with this operation.

Investigations such as these also have a wider impact in terms of reducing the need and demand for the crisis and emergency services offered by the Council and other partners in the community.

## Action plan for SFIS transfer

Timeline											
			Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15
Task	Owner										
Begin casework preparation prior to transfer	Fraud Manager										
DWP to confirm implementation date	DWP										
Identify Benefits Single Point of Contact	Benefits Manager										
Communications work with stakeholders, including trade unions	WR Transition Manager										
Confirm fraud staff in scope to transfer	Director Customer Management										
Establish Service Level Agreement with DWP over information transfer and case management arrangements; agree internal procedures to be followed	WR Transition Manager										
Preparation activities prior to data transfer	WR Transition Manager										
DWP notify staff in scope about transfer details – November 2015	DWP										
Staff transfer to DWP – Dec 2015	DWP										