
COUNTER FRAUD TEAM – BUSINESS CASE

1.0 EXECUTIVE SUMMARY

- 1.1 On 1 October 2015 the Council's Counter Fraud Investigation Team of 3 FTE will transfer to the Single Fraud Investigation Service (SFIS) which is part of the Department of Works and Pensions (DWP). This is because the bulk of its work is in the investigation of housing benefit fraud. This will leave the council with no capacity to investigate fraud after the transfer date. The Council must consider how it will identify, manage and otherwise mitigate risks of fraud without this resource particularly for Council Tax Reduction Scheme fraud for which the responsibility will remain with the council. There will also be residual responsibilities for providing information and liaising with SFIS in relation to housing benefit fraud and historic council tax benefit fraud.
- 1.2 This report presents the case for the Council to create a new Counter Fraud Investigation Team (CFIT) in order to prevent and detect fraud in relation to the Council Tax Reduction Scheme (CTRS) and to fulfil the residual responsibilities in relation to SFIS. The proposed CFIT would be located with Revenues and Benefits in Customer Services but would work closely with Internal Audit and provide investigative resource to them should they require this for corporate fraud.
- 1.3 It is proposed to have a small team of two members of staff, one of whom will carry out the Single Point of Contact (SPOC) role liaising with SFIS and the other will be carrying out the residual responsibilities that will lie with the council for CTRS fraud. They will provide cover for each other and both require to be PINS trained. The costs should be covered from a mixture of funding from DWP, and counter fraud recoveries.
- 1.4 The paper recommends that Policy & Resources Committee:
- notes the residual responsibilities for preventing and detecting fraud following the transfer to SFIS;
 - approves the formation of a new Counter Fraud Investigation Team (CFIT) from 1 October 2015 within existing budgetary resources.

COUNTER FRAUD TEAM – BUSINESS CASE

2.0 INTRODUCTION

- 2.1 The introduction of a Single Fraud Investigation Service (SFIS) brings together fraud resource from local authorities and the Department of Works and Pensions (DWP) into one unit called the Fraud and Error Service (FES) under the DWP. The Council currently employs a team of 3FTE staff who have the responsibility to detect and prevent fraud in relation to Housing Benefit, historic Council Tax Benefit and Council Tax Reduction Scheme. The majority of this work relates to Housing Benefit fraud. On 1 October 2015 these staff members will transfer into FES and will be employed by the DWP.
- 2.2 It is therefore essential that the Council looks at the impact that the loss of professionally qualified Counter Fraud Investigation staff could have. This report considers the residual obligation that Argyll and Bute Council will have after transfer. It provides a business case for the creation of a counter fraud investigation team (CFIT) to address these residual responsibilities.

3.0 RECOMMENDATIONS

- 3.1 To note the residual responsibilities for preventing and detecting fraud following the transfer to SFIS;
- 3.2 To approve the formation of a new Counter Fraud Investigation Team (CFIT) from 1 October 2015 within existing budgetary resources.

4.0 DETAIL

4.1 This report looks at the following aspects:

- The Council's governance requirements for fraud prevention and detection;
- The Council resources which need to be protected against the risk of fraud;
- Residual obligations following transfer to SFIS;
- The cost-effectiveness of a new CFIT;
- The assurance which a CFIT would provide to the Council's Monitoring Officer and to the Chief Financial Officer;

- Fraud case studies from Argyll and Bute Council which demonstrate the importance of having the unique skills and expertise which a CFIT would provide;
- Alternative options.

Council's governance arrangements for fraud prevention and detection

- 4.2 Section 4.18 of the Council's Financial and Security Regulations states that "The Executive Director – Customer Services is responsible for the development and maintenance of an anti-fraud and anti-corruption policy." The Anti-Fraud Strategy is set out at Appendix 2 to the Financial and Security Regulations. It says that "Managing the risk of fraud is the responsibility of the Council's Management". Internal Audit also has an interest in that the work provides assurance that "The Council's assets are safeguarded from significant losses, including those caused by fraud...". The Head of Strategic Finance reports in the annual accounts that he has "taken reasonable steps for the prevention and detection of fraud and other irregularities." The Statement of Governance and Internal Control signed by the Chief Executive, the Council Leader and the Head of Strategic Finance also makes reference annually to the anti-fraud strategy and these arrangements.
- 4.3 Audit Scotland, as part of their annual audit on the Council, specifically considers whether the arrangements for the prevention and detection of fraud and other irregularities are satisfactory. In their 2013/14 report they note under "Outlook" that "there are to be major changes in council's responsibilities for the investigation of fraud. The investigation of the Local Council Tax Reduction Scheme and corporate frauds will remain with councils. Responsibility for the investigation of Housing Benefit fraud is currently planned to transfer to a new Fraud and Error Service (FES) nationally." We should expect Audit Scotland to review our arrangements for fraud following this transfer.
- 4.4 The latest [CIPFA Code of Practice](#) also stresses the need to follow this path in the fight against Fraud across all Council Departments. It states that, the organisation should make arrangements for appropriate resources to support the counter fraud strategy.

Specific steps should include:

- An annual assessment of whether the level of resource invested to counter fraud and corruption is proportionate for the level of staff
- The organisation utilises counter fraud staff with appropriate skills and professional accreditation
- The organisation grants counter fraud staff unhindered access to its employee records, information and other resources as required
- The organisation has protocols in place to facilitate data sharing and intelligence.

Council resources which need to be protected

- 4.5 The table below shows the estimated value "at risk" for the Council for a range of service areas within Revenues and Benefits where fraud risk is acknowledged to exist. This has been calculated using a percentage risk provided by The National Fraud Authority (NFA), which is used as the National Standard, in relation to the current spend in each service area. These are "at risk" levels and are not

accurate estimates of the level of undetected fraud. Our actual levels of detected fraud through the National Fraud Initiative are far lower.

SERVICE AREA	TOTAL SPEND (£000)	% at RISK	“AT RISK” VALUE (£000)
Council Tax discounts and exemptions	6,707	5	335
Council Tax Reduction Scheme (CTRS)	5,589	5	279
Discretionary Housing Payments (DHP) <i>(note 1)</i>	785	5	39
TOTAL	13,081		653

Note 1 The Scottish Government tops up the allocation of funds from the DWP and this distribution is based on actual spend so that any prevention or detection of fraud in this area does not benefit the council directly.

- 4.6 In future, following transfer to SFIS, there will remain £13 million of CTRS and Council Tax discounts and exemptions that require to be safeguarded where fraud rates are relatively high at c 5% which directly impact the council’s finances. Appendix 1 details examples of these areas where the Council could be more pro-active. Council tax discounts and exemptions are regularly reviewed to ensure they are not awarded to those who do not meet the qualifying criteria. Where they are removed, currently they are removed only as far back as 1 April of the current council tax year, and not back to when the change in circumstance arose as this would affect previous year liabilities and these should only be changed late where there is good reason. Where it is clear that fraud has been committed, then this would be deemed a good reason for making changes to earlier years of council tax. If a small counter fraud team is created, this would provide some resource to undertake detailed fraud investigations of council tax exemptions and discounts awarded alongside investigations of CTRS frauds which also affect the total council tax billed.
- 4.7 CTRS used to be a national scheme called Council Tax Benefit but became localised in 2013 as CTRS and now directly impacts the Council’s income. The discount is means tested and retains strong links to the national Housing Benefit regulations in the way in which entitlement is assessed. The majority of applications for CTRS are joint applications for HB and CTRS. CTRS is therefore susceptible to fraud in the same way as HB is, and this will remain with the council following transfer to SFIS.
- 4.8 Discretionary Housing Payments are provided as a top up to Housing Benefit and any potential fraud in relation to Housing Benefit potentially also affects awards of DHP. Prior to SFIS transfer any such fraud would be investigated by the current team but these responsibilities will not transfer to SFIS and will remain with the council.

Residual obligations following transfer to SFIS

4.9 Following transfer to SFIS the Council will continue to have certain obligations under the Social Security Fraud Act 2001 and the Local Government (Scotland) Act 1973. The transfer of all fraud staff to SFIS makes meeting those obligations a difficult task. These obligations include the provision of the following information to SFIS:

- Copies of the claim forms and supporting documentary evidence during the period of the claim
- Electronic data held for that claim
- The claim review form
- Letters and any other communication from the HB (Housing Benefit)/CTB (Council Tax Benefit) claimant relating to the award
- Details of any interview or telephone call with HB/CTB claimant related to the award
- Witness statements and Schedule 8 documents under the Criminal Procedures (Scotland) Act 1995 to authenticate evidence supplied for prosecution
- Any other material which is relevant to the investigation.

4.10 Further details in relation to the residual duties that will be left with the Council are shown in Appendix 3. The proposed CFIT would cover all these residual obligations and is why DWP will provide funding for the SPOC role.

Cost-effectiveness of a new CFIT

4.11 The current Counter Fraud Unit consists of 3 members of staff with one manager at LGE10 and two counter fraud officers at LGE8. In order to carry out the residual responsibilities there would need to be two counter fraud officers as a minimum unit. This is because you need two people to undertake an Interview Under Caution. Also this provides the necessary resource to fulfil the SPOC role and one FTE to carry out investigations. The costs are projected at £74,000 per annum as set out in the table below. These would be managed within the current Benefits Team structure.

ROLE	Grade	Basic Salary	NI	Super ann	Essential Users' Lump Sum	TOTAL
		£	£	£	£	£
Employee Costs						
Counter Fraud Officer	LGE8	23,557	1,574	4,534	822	30,487
Counter Fraud Officer	LGE8	23,557	1,574	4,534	0	29,665
TOTAL EMPLOYEE COSTS						60,152
Other Costs						
Travel Costs						10,000
NAFN Membership						3,500
TOTAL OTHER COSTS						13,500
TOTAL COST OF CFIT PER ANNUM						73,662

- 4.12 The Council will receive some funding from the DWP for new burdens to cover the role of the Single Point of Contact (SPOC) for Housing Benefit and Universal Credit Fraud investigations. This is estimated to be around £19,000 per annum on the basis of other additional DWP funding that the Council currently receives.
- 4.13 The table below shows how the team could be self-funding based on DWP funding and recoveries of CTRS overpayments and council tax discount and exemption recoveries.

ITEM	£	£
Costs of a Corporate Fraud Unit of 3 staff		73,662
Income		
Anticipated CTRS recoveries 2014/2015	25,000	
Anticipated additional recoveries of Single Person Discount based on the cancellation of 1.5% of discounts per annum (120 discounts * £260 (Band C charge £1,047 * 25%)).	31,200	
Additional funding anticipated for the Single Point of Contact (SPOC) (4.10 above)	19,000	
TOTAL ANNUAL INCOME		75,200
SURPLUS/(DEFICIT)		1,538

The assurance which a CFIT would provide to the Council's Monitoring Officer and to the Chief Financial Officer

- 4.14 The expert knowledge held by the current benefit fraud team ensures that all evidence is correctly gathered, rights of suspects adhered to, all legislation complied with, and the reputation of the council upheld. Investigators currently deal with benefit fraud investigations from the gathering of evidence through to the interviewing of suspects and witnesses, and submission of cases direct to the Procurator Fiscal.
- 4.15 Following transfer of the benefit fraud team to SFIS, the council will have a gap in its expertise in this area which would be filled by a new counter fraud investigation team. Whilst Internal audit has expertise in reviewing the appropriate systems, controls and checks for Council business, unlike the benefit fraud team, they have not completed the DWP's Professionalism in Security (PinS) training specifically geared to detecting social security fraud. The proposed new team would be able to provide occasional resource to Internal Audit in order to assist them in investigating any corporate frauds which arise.

HB/CTRS Fraud case studies from Argyll and Bute Council

- 4.16 The case studies in Appendix 2 show the risks that people are prepared to take to perpetrate fraud. They show that whilst detecting the fraud allows the Council to recover overpaid monies, it also stops the fraud continuing and more money being lost. Publicising the work of the fraud team ensures that the public are aware that if they perpetrate fraud there is a risk that they will get caught and prosecuted. The case studies prove that the risk of CTRS fraud is very real, and not theoretical, and that there is a need to put something in place following the transfer of the HB fraud team to SFIS.

4.17 The table below summarises the overpayment information for the case studies at Appendix 2.

Case No.	Fraud Value/Overpayments				
	HB (£)	CTB (£)	CTRS (£)	State Benefit (£)	TOTAL (£)
1	3,336	318	512		4,166
2	1,468	5	328		1,801
3	Case on-going value to be determined				
4	Case on-going value to be determined				
5	13,686	4,227	497	54,723	73,132
6	5,343	1,772		6,283	13,398
7	5,695	510	1,230	4,801	12,235
8	18,632	3,363		20,073	42,068
TOTAL	48,159	10,195	2,567	85,879	146,800

Alternative options

4.18 There are a number of alternative options that have been considered as follows:

- Do nothing/do minimum;
- Option 1 – retention of one person to do SPOC role and provide some very limited investigation resource;
- Option 2 – retention of two people, one for SPOC role and one as investigator as proposed at 4.11-13 above;
- Option 3 – team of 3 with cost of £111,000.

These are examined in more detail below:

Strengths	Weaknesses	Opportunities	Threats
Do nothing/Minimum			
None identified	No PinS trained investigators left in council. Internal audit would have to free up time to respond to any corporate frauds uncovered affecting progress on normal audit programme, and would require extensive training, or external resource brought in each time. No resource for SPOC role, so SFIS requirements responded to late, poor quality etc.	None identified	Risk that corporate frauds are not prosecuted as evidence is not collected in appropriate manner and there is no deterrent as this becomes known. Negative impact on benefits processing performance as resource diverted to fulfil SPOC role.

Option 1 – one person for SPOC role			
Maintains good ability to respond to SFIS	Lack of cover if person off sick, on holiday. No PinS trained investigators left in council. Internal audit would have to free up time to respond to any CTRS frauds uncovered affecting progress on normal audit programme, and they would require extensive training, or external resource brought in each time.	None identified	Risk that CTRS frauds are not prosecuted as evidence is not collected in appropriate manner and there is no deterrent as this becomes known.
Option 2 – one person for SPOC role and one trained fraud investigator – as described at 4.11-13 above			
Maintains good ability to respond to SFIS with cover for this. Provides some fraud investigation resource for CTRS and council tax discounts /exemptions. Some ability to assist Internal Audit with corporate fraud investigations should these arise.	If either off sick or on holiday, unable to undertake interviews under caution which require 2 people. Would require internal audit to free up some time to support and address other non-investigative aspects.	Able to detect some CTRS and council tax frauds, publicise this and create some deterrent effect.	Some risk of internal audit programme being negatively impacted on occasions when they are required to supplement investigation resource if this is not covered by planned contingency days. Some risk of not recovering sufficient income to be self financing
Option 3 – team of 3 - one person for SPOC role and two trained fraud investigators – cost of £111,000			
Maintains good ability to respond to SFIS with cover for this. Provides good level of fraud investigation resource.	None	Would provide capacity to work on preventing and detecting wide range of corporate frauds, publicise this and create excellent deterrent effect.	High risk of not recovering sufficient income to be self financing

Option 2 above is preferred as this provides the SPOC resource required by DWP and provides the minimum level of investigative resource with cover for holidays and sickness, recognising that two people are required for certain activities. Option 3 is considered too high cost when the council is facing a future

of declining financial resources. There is too much uncertainty about the ability to make recoveries that would fund a team of this size. Whilst there are similar risks in terms of funding the smaller team of 2 FTE, this is the minimum size of team that can deliver the residual responsibilities and this minimises the risk of any funding shortfall. Do Nothing and Option 1 do not provide any assurance which would meet the council's residual responsibilities in relation to CTRS fraud and are therefore not acceptable.

4.19 It is expected that the proposed team will be self-financing as set out at 4.13. However, there is a degree of risk that actual recoveries might not be as much as anticipated. Appointments to the new team will therefore be made on a temporary basis. Regular reports will be made to the Strategic Management Team (SMT) to review actual recoveries being made, and appropriate management action will be taken if targets are not met, in order to minimise the risk to the council's finances.

5.0 CONCLUSION

5.1 The Council is exposed to the risk of fraud in CTRS and has a responsibility to manage this following the transfer of the HB fraud team to SFIS. It also has residual responsibilities in terms of liaising with SFIS in relation to HB fraud and will receive some funding for this work. The minimum size of team needed to fulfil these residual responsibilities is 2 FTE, both of whom need to be PINS trained and able to cover for each other. One will focus on SPOC responsibilities and one will focus on CTRS investigations. There will be some resource between them to work on selected council tax discount and exemption cases highlighted in normal review work. Together this will generate an income stream which, along with DWP funding, should cover the costs of the team of two.

5.2 Policy & Resources Committee is asked to approve the formation of a CFIT of two staff as this is the best option. The team will be self-financing and will help to protect the Council from the effects of fraud and also protect the Council from reputational damage when fraud is uncovered within Argyll and Bute.

6.0 IMPLICATIONS

6.1 Policy: Some modest revision of Anti Fraud Strategy and related annexes will be required following SFIS transfer in Oct 2015.

6.2 Financial: Proposed CFIT will be self financing. SMT to review targets and actual recoveries on a regular basis to ensure this is achieved.

6.3 Legal: None

6.4 HR: Would require 2 new posts to be created which should be at a comparable grade to the existing counter fraud officers. Current HB counter fraud officers would be able to apply for these posts as an alternative to transferring to SFIS. Appointments to these posts to be made on a temporary basis.

- 6.5 Equalities: None
- 6.6 Risk: If approved, a new CFIT would mitigate risk that Council will be exposed to CTRS Fraud in the future. Without such a team, there is no capacity in Benefits to absorb new SPOC responsibilities or carry out residual CTRS fraud responsibilities.
- 6.7 Customer Service: None

Appendices:

- 1 Areas susceptible to fraud within Revenues and Benefits
- 2 Argyll and Bute Council fraud case studies
- 3 Residual Obligations for council after SFIS transfer

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CORPORATE COUNTER FRAUD TEAM BUSINESS CASE

APPENDIX 1: COUNCIL AREAS SUSCEPTIBLE TO FRAUD

1. COUNCIL TAX SINGLE PERSON DISCOUNT (SPD) FRAUD

In 2014 we have 15,169 SPD claims which total £4,060,190 per annum in discounted Council Tax bills. The last review carried out on our SPD caseload highlighted 780 awards (around 5%) which were incorrect and their discount was cancelled. Our existing SPD review process cancels the discount back to the 1 April in the year that the inconsistency is picked up. This limits the overall amount of underpayment. A Counter Fraud Investigation team could obtain more information about cohabitation and give a more accurate calculation of the date this change should be applied from thereby generating more income for the Council. A Counter Fraud Investigator could potentially challenge new applications more rigorously than we do at present.

The Audit Commission estimates that 4 to 6% of all Single Person Discount claims are fraudulent. This correlates with Argyll and Bute's figures which suggest that 5% of SPD's are erroneous or fraudulent. The Council has just signed a two year contract with Datatank to undertake reviews of the Single Person Discount caseload over the next two years. Where the customer does not agree to the removal of the SPD, Datatank will advise the Council that there is a discrepancy, and it then becomes the Council's decision to conduct an investigation into the case and ultimately to remove the discount. The Counter Fraud Investigation team will get involved at this stage and conduct interviews using the section 35(1) of the Data Protection Act 1998. It is anticipated that this could generate an additional £27,000 of revenue for the Council.

2. COUNCIL TAX FRAUD – OTHER DISCOUNTS AND EXEMPTIONS

This occurs when an individual intentionally gives incorrect or misleading information in order to pay less or no council tax. Taking the rate of fraud in SPD claims as a guide, and in the absence of any other work being carried out, the NFA has assumed a conservative 4% fraud rate across all council tax discounts and exemptions.

A Civil penalty can be imposed for Council Tax at a rate of £500 for the offence of either failing to respond to a request for information to identify the liable person or failure to report that a discount should no longer be applied. These penalties also apply to landlords of houses of multiple occupation, managers of hostels and lawyers and advisers who may be acting on behalf of the taxpayer. The Council imposed civil penalties in respect of Council Tax for the first time last year due to poor response rates to requests for information in respect of the double Council Tax charge on long term empty properties. There are opportunities to be much more pro-active using these powers to ensure tyha accuracy of the council tax register.

3. COUNCIL TAX REDUCTION SCHEME (CTRS) FRAUD

CTRS was introduced in April 2013 as the replacement for Council Tax Benefit (CTB). In 2014/2015 we awarded £5.6m CTRS in Argyll and Bute. The scheme in Scotland is identical to the previous CTB scheme, and therefore the process for investigating fraud is also identical. Over the last three years the Counter Fraud Investigation team has identified £84,000 of CTB/CTR fraud with an anticipated £20,000 of CTRS fraud identified in the current financial year.

APPENDIX 2 – ARGYLL AND BUTE COUNCIL FRAUD CASE STUDIES

CASE STUDY 1 – FRAUD BY COUNCIL EMPLOYEE RELATING TO HOUSING BENEFIT (HB), COUNCIL TAX BENEFIT (CTB) AND COUNCIL TAX REDUCTION SCHEME (CTRS)

A Council employee admitted making false statements to obtain £4,166 in HB (£3,336), CTB (£318) and CTRS (£512) by failing to declare student status and student income. The claimant accepted an administrative penalty of £2,000 as an alternative to prosecution.

CASE STUDY 2 – FRAUD BY COUNCIL EMPLOYEE RELATING TO HB, CTB AND CTRS

A claimant in receipt of HB and CTB and then CTRS failed to declare that they had commenced employment with the Council and therefore was in receipt of Earned Income which meant they had no entitlement to the benefits. The claimant then gave a false start date during an interview under caution in an attempt to minimise their losses. The case has been passed to the procurator fiscal for consideration of criminal proceedings. The total overpayment is £1,801 including HB £1,468, CTRS £328 and CTB £5.

CASE STUDY 3 – FRAUD BY COUNCIL EMPLOYEE RELATING TO HB, CTB AND CTRS

A Council employee is suspected to have falsely claimed HB and CTRS by not declaring her employment with the Council and income. It is also alleged that she gave a false start date for her employment after the investigation commenced and has not declared that she lives with her partner. The investigation is ongoing and as yet it is not possible to determine the value of the overpayment identified in this case.

CASE STUDY 4 – HB AND CTB FRAUD

This case involves conspiracy to defraud the DWP and the Council. The claimant has been residing in Malta since 2006 whilst claiming Housing Benefit from the Council and Pension Credit from the DWP. The combined overpayment is estimated as £74,000. The claimant was devious in that he was assisted by another suspect who was residing in the housing association rented property and who collected the claimant's benefit money before delivering it in cash by meeting him in Malta once per quarter. Under normal circumstances these actions would have circumvented any routine investigation. However an anonymous referral was received and the Council's Fraud team worked with the DWP investigation team and the Police undertaking surveillance on the suspect which corroborated the allegation.

At the request of the Council the Police obtained a search warrant and further evidence was obtained including £10,000 in cash from the property. This is currently a production which is subject to the Proceeds of Crime Act (POCA).

Although the investigation has proved difficult in terms of working with Interpol and recovering evidence from the Maltese authorities, however the team are hopeful that the case will be presented to the procurator fiscal in the near future. What is clear is that the fraud is no longer being perpetrated saving the taxpayer £900 per month. In

addition West Highland Housing Association has been able to let the flat to a family who has a genuine need for housing in the area.

CASE STUDY 5 – HB, CTB, CTRS AND STATE BENEFIT FRAUD

This case involves a claimant defrauding the Council and the DWP of benefits to the value of £73,132. The claimant, who was claiming HB (£13,686) CTB (£4,227), CTRS (£497) and pension credit (£54,723), was operating a scrap metal business. The accused had capital in his bank accounts in excess of £40,000 as well as his assets from his business (commercial vehicles), he had private cars which were valued at the higher end of the market. The accused has been reported to the Procurator Fiscal and further enquiries are continuing. At interview stage the accused gave up his pitch at the travelling person's site and all his benefits were stopped. The enquiry, both complicated and vast has uncovered evidence from a large number of different areas which in turn has uncovered other long term benefit fraud allegations. Various breaches of other regulations have been reported to other organisations such as SEPA, ACHA and the Traffic Commissioners.

CASE STUDY 6 – HB, CTB AND STATE BENEFITS

This case relates to a living together allegation which had a combined overpayment of £13,394. The claimant had falsely claimed HB (£5,343), CTB (1,772) and DWP benefits (£6,283). The claimant refused to be interviewed and investigations had to establish evidence of identity. The claimant pled guilty at Oban Sheriff Court and sentencing outcomes are still awaited.

CASE STUDY 7– HB, CTB AND STATE BENEFITS

This case relates to a living together allegation which had a combined overpayment of £12,235. The claimant had falsely claimed HB (£5,695) CTB (£510), CTRS (£1,230) and DWP benefits (£4,801). The claimant and alleged partner are nurses. Decision on this case is pending but is likely to end with a report to Procurator Fiscal.

CASE STUDY 8 – HB, CTB AND STATE BENEFITS

The claimant had failed to report an occupational army pension. The combined overpayment of £42,068 was for defrauding the Council and DWP of benefits. This involved £18,632 of HB, £3,363 of CTB and £20,073 of DWP benefits. The case was reported to the Procurator Fiscal. The outcome is awaited.

CASE STUDY 9 – HB AND COUNCIL TAX FRAUD

The fraud sections are currently working with the Home Office in relation to alleged slave labour practices being undertaken in Argyll and Bute. Some of these cases are linked to HB overpayment but also to Council Tax evasion. Identity fraud is also a factor being considered and the use of forged documents to claim benefits.

APPENDIX 3 - RESIDUAL OBLIGATIONS FOR ARGYLL AND BUTE COUNCIL AFTER THE TRANSFER OF COUNTER FRAUD INVESTIGATORS TO DWP

After the implementation of the SFIS the Council will continue to have obligations to fulfil under the Social Security Fraud Act 2001 and the Local Government (Scotland) Act 1973. The transfer of the fraud service to DWP would make meeting those obligations a difficult task, as Council staff will be expected to provide information in relation to residual Council Tax Benefit (CTB) and Housing Benefits (HB) including the following:

- The claim forms and supporting documentary evidence during the period of the claim
- Electronic data held for that claim
- The claim review form
- Letters and any other communication from the HB (Housing Benefit)/CTB (Council Tax Benefit) claimant relating to the award
- Details of any interview or telephone call with HB/CTB claimant related to the award
- Witness statements and Schedule 8 documents under the Criminal Procedures (Scotland) Act 1995 to authenticate evidence supplied for prosecution
- Any other material which is relevant to the investigation.

The Council will have to give evidence as requested by FES as well as a witness statement from the officer who provided the information and a schedule 8 document for each piece of evidence whenever a case is referred to the Procurator Fiscal. To provide information in this format is labour intensive and attention to detail is paramount. The schedule 8 document (section 279 of the Criminal Procedure (Scotland) Act 1995) means that all documentary productions will require one or two certificates of admissibility in criminal proceedings of copy documents and of evidence contained in business documents. Currently the Investigator will complete these documents for all witnesses to sign, and will prepare the witness statement as far as possible. Both tasks are lengthy and sometimes complicated.

From 1 October 2015, the Council must provide the following under the Social Security Administration Act 1992 or the Local Government (Scotland) Act 1973:

- A Single Point of Contact (SPOC) to provide a liaison service in respect of DWP benefit investigations involving HB and the Information Sharing Protocol; This would involve the SPOC providing supporting evidence as requested by FES. A witness statement by the person who provided the evidence, and a Schedule 8 document will also have to be provided.
- Counter fraud services to prevent detect and investigate Council Tax Reduction (CTR) fraud; there is currently £5.589 million of Council tax reduction awards administered in Argyll and Bute.
- Often CTR is claimed jointly with HB by claimants. However, CTR is now a discount of Council Tax and FES will refer all CTR cases back to Argyll and Bute Council even where they have investigated the HB claim and made adjudication. They will not provide the evidence to support any adjudication required by the Council to investigate the CTR offence and therefore an

investigation to obtain this evidence will have to be carried out by the Council.

Other residual obligations will include:

- A counter fraud service to prevent, detect and investigate Council Tax discount fraud, particularly in relation to Single Person Discount (SPD) fraud. Based on the exercise carried out in 2010, approximately 780 cases were identified as either fraudulent or erroneous, 5.2% of the caseload. The Council do not currently investigate fraud in relation to Council Tax discounts however under a corporate fraud approach these cases would be referred to the Corporate Fraud team to obtain evidence and to prepare for a case for prosecution if required.
- The Counter fraud investigation team would also provide annual fraud awareness training to all Revenues and Benefit staff.
- Should the DWP require local authorities to sift cases before referring to them to SFIS, based on 2013/2014 figures this would be in the region of 294 cases per year.

The DWP will give the council funding for new burdens in relation to the formation of SFIS. It is not clear how much funding this will be at this stage. For the purposes of this paper, it has been estimated in the region of £19,000 per annum based on other funding streams from DWP. There is a risk that it might be less.