
Report To: Policy and Resources Committee

Date: 17 November 2009

Report By: Chief Financial Officer

Report No: FIN/63/09/AP/FB

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Subject: Review of Corporate Debt Policy and Benefits Control Team Fraud and Sanctions Policies

1.0 PURPOSE

- 1.1 The Council's Corporate Debt Policy and the Benefit Control Teams (BCT) Policies must be reviewed and presented to Committee for approval on a tri-annual basis.

2.0 SUMMARY

- 2.1 The Corporate Debt Policy should strike a balance between recognising the duty of the Council to optimise recovery of debts and the difficult financial circumstances which some debtors can experience. The Policy is a framework covering the following broad areas:

- Charging and invoicing
- Advice and Assistance
- Recovery
- Write –off

The Policy is shown in Appendix 1

- 2.2 The Policy is supported by more detailed recovery procedure as well as a Sundry Debt Best Practice Guide. The Debts covered by these procedures are; Council Tax, NDR, Sundry Debts both standard and sensitive as well as Industrial and Commercial Rents.
- 2.3 The Policy has been reviewed and updated where appropriate by the Revenues Management Team, the most recent review being in September 2009.
- 2.4 The BCT Fraud and Sanctions Policies are subject to Committee Review in order to satisfy Audit Scotland and the Department for Work and Pensions that the public purse is being protected and that the Council is committed to continuous improvement in this area.

Inverclyde Council acknowledges and accepts its responsibility to protect Public Funds in terms of the proper payment of Housing and Council Tax Benefit.

Appendices 2 and 3 detail the Fraud and the Sanctions Policies that support the operation of the BCT.

3.0 RECOMMENDATIONS

- 3.1 That Committee approve the Corporate Debt Policy detailed in Appendix 1
- 3.2 The Committee is asked to note and approve the content of the BCT Policies.

Alan Puckrin
Chief Financial Officer

4.0 BACKGROUND

- 4.1 The Corporate Debt Policy has existed in very much the same format for the last 8 years. While the day to day operations and procedures have changed along with some of the Legislative requirements the main content of this document is still applicable.
- 4.2 A presentation has been arranged for early November to Members covering the Debt Recovery process including an update on the legislative changes which will be delivered in conjunction with the Councils Debt Management Partner.
- 4.3 The contract with the Council's previous Debt Partner expired in March 2008. The new contract was awarded to Walker Love and Co. Performance for the first year of the contact was reported to Policy and Resources Committee in September 2009.
- 4.4 The BCT Polices have been revised since last reported to Committee in 2006. This is in line with changes within the structure of the team and as a result of advice by Audit Scotland after a favourable Audit of the Benefits Service.

5.0 IMPLICATIONS

- 5.1 **Financial:** The work of BCT through reducing fraud and error helps minimise the loss of Benefit Subsidy which is either paid at a reduced rate or not at all on overpayments.

The Debt Recovery Process is crucial for the Council to maximise income through the collection of all categories of Debt.

- 5.2 **Legal:** In order to protect itself from possible legal action certain areas within BCT must be covered by approved training and or appointing nominated officers. The main areas being:

- The Regulatory Investigatory for (Scotland) Act (RIPSA) insists that an authorised signatory must approve any court/surveillance action. This is currently the responsibility of the Chief Financial Officer. Failure to seek this approval could result in legal action against the Council for a breach of Human Rights as an invasion of privacy.
- A certificate of authorisation must be held before an individual can contact financial institutions and request information for Fraud Investigations. One individual from Revenues and Benefits has been trained and registered as an Authorised Officer. This officer will contact employers, pension providers, landlord records etc to request relevant information required by the Fraud Investigators.

- 5.3 **Personnel:** To ensure security of the information held relating to potential fraud claims a Code of Conduct is in place. All members of the BCT must sign this document and are expected to adhere to all aspects of the code. Appendix 4 sets out the code of conduct.

CORPORATE DEBT POLICY**1. Corporate Policy Statement**

The Council recognises its dual responsibility to collect debts in a sensitive, clear and efficient manner whilst assisting those in need to reduce overall indebtedness and break the cycle of debt.

2. Charging Policy

- (a) Whilst the basis for many charges is determined externally the Council recognises that, where it has discretion in determining charges, the level of charges will reflect its Social Inclusion agenda and the Council's wider responsibilities to its citizens.
- (b) In line with the Financial Regulations all scales of charges/tariffs (not fixed by statute) shall be reviewed corporately by Chief Officers at least annually. The review will be carried out in consultation with the Chief Financial Officer and be reported to the appropriate Committee.

3. Advice and Assistance

- (a) The Council will provide streamlined, high quality and consistent advice to individuals seeking assistance. The Council recognises its key role in maximising individual's income and reducing overall indebtedness.
- (b) All employees involved in the Debt Recovery/Debt Advice process will be appropriately trained in debt awareness issues, in particular employees will be trained in recognising the symptoms of indebtedness and the need for referral to the appropriate internal/external advisors.
- (c) The Council will issue Debt Advice packs at the appropriate juncture which in line with changes to legislation now means that a Debt Advice Pack is always issued along with a charge for payment. However, if diligence is being done after a charge has been served, the Debt Management Partner will ensure that if a pack was previously served more than 12 weeks before the diligence then another one will be issued.
- (d) The Council also recognises the role played by external organisations in providing advice and support and will endeavor to optimise the benefits of joint working.

4. Issuing Invoices

- (a) In order to reduce administrative costs the Council will seek payment at the point of Service booking/provision whenever practical. The specific areas where this will occur will be determined by the Chief Financial Officer in consultation with the relevant Chief Officer.
- (b) The Council recognises that a key factor in debt reduction is to issue invoices promptly and accurately. In line with the Financial Regulations accounts for services rendered must be raised within one month of the point of sale.
- (c) In order to reduce administrative costs the Council will not issue accounts for less than £1.00 in all cases and in line with the Best Practice Guide, there should be justification before issuing invoices for less than £10. The Chief Financial Officer will have discretion to approve the non-issuing of accounts for amounts over £1.00 where it is viewed that the administrative costs are prohibitive.

5. Debt Payment

- (a) The Council recognises that a key factor in maximising its income is to provide as many outlets for paying and methods of payment as practical for example, offering four different payment dates in a month and allowing Direct Debit payments over 12 months in particular circumstances. Direct Debit can now be set up over the phone without the need for form completion. All payment options are balanced against the costs involved.
- (b) The Council will allocate payments received accurately and promptly and, where specified, in line with the instructions of the debtor.

6. Managing Sensitive Debt

- (a) The Council recognises that it charges for a number of services where recovery of unpaid debt must be dealt sensitively. In these cases recovery of the debt will in the first instance be remitted to the Head of Service of the Service concerned and, only on the instruction of the Service Head, will the debt be passed to the Debt Management Team for collection.

The collection performance will regularly be reviewed and monitored and will be reported as part of the monthly budget meetings.

7. Debt Recovery

- (a) Inevitably certain debts will need to be passed to the Debt Management Team and Debt Management Partners for collection. Where this is done recovery will be carried out within predefined parameters and all officers involved will deal with debtors in a courteous/discreet and non-confrontational manner.
- (b) When recovering debts the Council recognises the debtor's ability to pay by negotiating payment by installments' and encouraging debt counseling where appropriate.
- (c) An annual report detailing the Council's overall performance in respect of debt recovery will be presented to the Policy & Resources Committee prior to 30 September each year.

8. Provision for Bad Debt/Write-Offs

At least annually, the Chief Financial Officer shall review provisions for Bad Debts and write-off debts in consultation with the Head of Legal and Administration. These actions will form part of the annual report referred to in 7(c) above.

9. Interest on Late Payment

- (a) The Chief Financial Officer in consultation with the Head of Legal and Administration will agree any occasions when it is appropriate to charge interest in line with Late Payments legislation.

10. Amendments to Policy/Procedures

- (a) The Corporate Debt Policy can only be amended by the Policy & Resources Committee.
- (b) The Corporate Debt Policy will provide the framework within which procedures for recovery of individual debts are developed. All debt recovery procedures will require the prior approval of the Chief Financial Officer in consultation with the Head of Legal and Administration.

Revenues and Benefits

FRAUD POLICY

1. Inverclyde Council is committed to taking a pro-active stance against benefit fraud.
2. Inverclyde Council is committed to the prevention, detection, deterrence and investigation of all forms of benefit fraud.
3. Inverclyde Council will not tolerate fraud of any type or in any circumstances, whether it is carried out by claimants from different claim groups or by employees.
4. Inverclyde Council is determined to root out fraud carried out by employees who are abusing their position and by others who try to gain assets or services to which they are not entitled.
5. Inverclyde Council will make full use of all possible sanctions when dealing with those who commit benefit fraud.
6. Inverclyde Council will continue to provide Benefit Fraud staff with appropriate training, and will make available sufficient resources to sustain its stance in fraud work.
7. Inverclyde Council is committed to providing fraud awareness training to staff based in public service sections.
8. Inverclyde Council will encourage the public to take a responsible attitude to fraud and report it.
9. Inverclyde Council will provide means for the public to report fraudulent activity, the use of which will be publicised and encouraged.
10. Inverclyde Council is committed to publicising results from benefit fraud work.

Revenues and Benefits**SANCTIONS POLICY**

1. Inverclyde Council will treat each case on its own merits and consider the appropriateness of an Administrative Caution, Administrative Penalty or Prosecution.
2. Inverclyde Council will consider prosecution of anyone who commits fraud, as this is an important way of discouraging other people from committing fraud in the future.
3. Before proceeding to prosecution, the council will examine whether it is in the public interest to prosecute.
4. The following will be used to determine the appropriate sanction;
 - 4.1 The amount of the overpayment,
 - 4.2 The duration of the offence,
 - 4.3 The physical and mental condition of the suspect,
 - 4.4 Any voluntary disclosure,
 - 4.5 If the suspect holds or held a position of trust,
 - 4.6 Any previous incidence of fraud,
 - 4.7 Failure in benefit administration, including delay,
 - 4.8 A significant sentence resulting from a conviction,
 - 4.9 If the offence was premeditated or opportunistic.
5. **Administrative Cautions**
 - 5.1 An Administrative Caution can be offered to a claimant as an alternative to reporting the case to the Procurator Fiscal. Cautions are usually only offered for the less serious benefit frauds, e.g. involving low amounts or committed over short periods.
 - 5.2 The case must be of a standard that would allow the Council to report the matter to the Procurator Fiscal if the customer refused the caution.
 - 5.3 Additionally, the offender must have admitted to the offence during an interview under caution and provide informed consent to being cautioned.
 - 5.4 In Scotland, Administrative Cautions have no legal standing and cannot be cited in open court in the event of any subsequent action but may be referred to in a report submitted to the Procurator Fiscal for consideration of prosecution.
6. **Administrative Penalties**
 - 6.1 Administrative Penalties are also direct alternatives to reporting the case to the Procurator Fiscal. A penalty is the offer to the customer to agree to pay a financial penalty linked to the amount of benefit overpaid. The penalty is currently stipulated at 30% of the overpayment amount.
 - 6.2 In common with Administrative Cautions, the case must be of a standard that it could be reported to the Procurator Fiscal should the customer refuse the offer of an Administrative Penalty.
 - 6.3 Unlike Cautions, the claimant is not required to admit their guilt during an interview under caution for the offer of an Administrative Penalty to be made.

Revenues and Benefits

7. Prosecutions

- 7.1 Reports are submitted to the Procurator Fiscal through the Online Reporting Procedures and the Procurator Fiscal will decide whether to prosecute the suspect.
 - 7.2 Before prosecuting, the Fiscal will decide whether it is in the public interest to do so.
- 8.** Where an Administrative Penalty is offered and accepted, the penalty value will be recovered over and above the fraudulent overpayment.
- 9.** Inverclyde Council will work closely with the Department for Work and Pensions where Social Security Benefits are compromised.

BENEFIT CONTROL TEAM

INVESTIGATION OFFICERS' CODE OF CONDUCT

Inverclyde Council recognises that the investigation of alleged or suspected fraudulent Housing Benefit/Council Tax Benefit claims can require tact and sensitivity.

Investigation Officers are therefore expected to conduct their duties in a competent and professional manner.

In addition to the Council's Customer Care Charter, Fraud staff will observe the following rules;

- ❑ Officers will conduct enquiries in accordance with all relevant legislation and the general 'test of fairness'.
- ❑ Officers will be required to fully consider all proposed actions and demonstrate that such actions are necessary and proportionate. In all instances, consideration should be given as to whether information can be obtained by less intrusive means including contacting the claimant directly.
- ❑ Officers will declare all cases of alleged or suspected fraud where they have an interest. An interest is defined as ownership of property involved in the case, or a personal relationship with any persons being included in the investigation.
- ❑ Officers will at all times ensure that information held by the Council is obtained, utilised, stored and shared in line with the Data Protection Act 1998, or any subsequent replacement Act, and the common laws of confidentiality.
- ❑ At all times during an investigation, officers should consider and observe the rights of any individual that they are interviewing or investigating. It is the duty of Investigation Officers to establish the facts of the case and not to make conclusions based on intuition or supposition.
- ❑ Officers will refrain from speaking jargon. Always use language that the claimant will understand.
- ❑ During interviews, officers will not coerce anyone to give information or statements in return for immunity from prosecution or any other favour. Conversely, officers have a duty to immediately report any threat of violence, intimidation or approach by individual(s) offering inducements for favourable treatment.
- ❑ Officers will not make false statements in order to attempt to obtain an admission of fraud from a claimant or any other person involved.
- ❑ Officers will utilise the computerised fraud case management system keeping full and accurate records of all aspects of an investigation using the relevant prescribed pro forma's where applicable and including evidence that indicates the claimant's innocence. Such material will not be concealed or withheld in any way and will be presented with all other evidence.
- ❑ Officers will at all times be aware of the possibility of compromising their integrity or that of the Council.

- ❑ Officers will consult with a senior officer if they feel that fraud action is inappropriate because the claimant is seriously ill, mentally ill or heavily pregnant.

DECLARATION

I acknowledge that I have read and understand the above 'Code of Conduct' and that I will abide by its requirements.

I acknowledge that failure to comply with any of the requirements of the 'Code of Conduct' or to provide a false statement or to fail to promptly report any relevant changes may result in disciplinary action being taken, which could lead to dismissal.

Name (Block Capitals) _____

Signature _____

Date _____

Received By _____

Designation _____

Date _____