

Withdrawn

This publication is withdrawn.

This guide has been withdrawn because it is out of date.



Department
for Work &
Pensions

Fraud investigations: staff guide

Part 1

May 2019

Abbreviations

A

A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z

Abbreviation	Meaning
AA	Attendance Allowance
AAADG	Agents Appointees Attorneys and Deputies Guide
AACS	Attendance Allowance Computer System
AACT	Actual Average Clearance Time
AAP	Authorised Adjustment Payment Made
AAU	Attendance Allowance Unit
ABM	Activity Based Management
AC	Alternative Communications
ACC	Area Computer Centre
ACD	Automated Call Distribution
ACM	Active Case Management

ACOT	Average Clearance Outstanding Times
ACPO	Association of Chief Police Officers
ACT	Automated Credit Transfer
ADC	Alternative Distribution Channel
ADJ	Adjustment
AD PEN	Administrative Penalty
ADT	Application Development Team
AE	Administrative Error
AJCS	Accessing Jobcentre Customer Services
AM	Attendance Management
AO	Administrative Officer
AO	Authorised Officer
AP	Action Point
ARN	Agreement Reference Number

AT	Appeal Tribunal
ATAS	Audit Trails Analysis System
ATOS	Occupational Services
ATP	Authority to Pay
ATW	Access To Work
AU	Combined Payment
AWDL	Average Working Days Lost

B

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Abbreviation	Meaning
BA	Bereavement Allowance
BACS	Bankers Automated Clearing System
BAU	Business as Usual

BB	Bereavement Benefit
BC	Benefit Centre
BC	Business Case
BCE	Business Continuity Event
BCP	Business Continuity Plan
BCS	Business Control System
BCT	Business Continuity Team
BD	Benefit Directorate
BDC	Benefit Delivery Centre
BDCM	Benefit Delivery Centre Manager
BDE	Benefit Delivery Expert
BDM	Benefit Delivery Manager
BDO	Benefit Delivery Officer
BDP	Benefit Delivery Process

BDRG	Benefits Document Retention Guide
BEL	Benefit Enquiry Line
BET	Business Engagement Team
BEU	Business Expert User
BExBI	Business Expenditure Business Information
BF	Brought Forward
BIC	Benefit Integrity Centre – No longer exists – Now CFCD Interventions
BIR	Business Incident Report
BLACC	Bank Liaison Automation and Customer Contact
BLS	Bank Liaison Section
BMO	Business Management Office
BOC	British Overseas Citizen
BP	Business Partner
BPT	Business Partner Team

BSL	British Sign Language
BSP	Bereavement Support Payment
BSO	Bankers Standing Order

C

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Abbreviation	Meaning
C&P	Claims and Payments
CA	Carer's Allowance
CA	Contributions Agency
CAA	Constant Attendance Allowance
CAB	Citizens Advice Bureau
CACS	Carer's Allowance Computer System
CAF	Call Assessment Framework
CAM	Customer Account Management System

CAM	Customer Account Management
CAMlite	Customer Account Management lite
CAP	Code of Appeals Procedure
CAPS	Customer Accounting and Payment System
CAPS	Customer Accounting and Payment Strategy
CAT	Central Admin Team
CAT	Central Activities Team
CATP	Cancellation of Authority to Pay
CAU	Carer's Allowance Unit
CB	Contributory Benefit
CBA	Cost Benefit Analysis
CC	Case Control
CC	Carer's Credit
CCB	Community Charge Benefit

CCD	Contact Centre Directorate
CCG	Community Care Grant
CCH	Customer Care Helpline
CCM	Customer Care Management
CCMS	Customer Conversion Management Service
CCP	Change Control Process
CCI	Central Criminal Investigator - No longer used as a term. Replaced by the term SOC (Serious and Organised Crime) Investigator
CCIIS	Central Criminal Investigation and Intelligence Service - No longer used as a term. Replaced by the term intelligence Service
CDR	Critical Design Review
CE	Chief Executive
CED	Claim Effective Date
CES	Customer Enquiry Service
CET	Client Engagement Team
CHB	Child Benefit

CHIS	Covert Human Intelligence Source
CI	Change & Implementation
CI	Criminal Investigator - No longer used as a term.
CIA	Criminal Investigator Assistant - no longer used as a term. Replaced by the term Criminal SOC Investigator Assistant
CIA	Criminal Intelligence Assistant - no longer used as a term. Replaced by the term Intelligence Assistant
CIC	Customer Initiated Change
CIL	Customer Information Leaflet
CIO	Criminal Intelligence Officer - no longer used as a term. Replaced by the term Intelligence Officer
CIS	Customer Information System
CIT	Corporate Information Technology
CJA	Criminal Justice Act
CL	Crisis Loan
CL	Common Law

CLCA	Criminal Law Consolidation Act
CLM	Customer Liaison Manager
CM	Change Management
CMB	Change Management Board
CMEC	Child Maintenance and Enforcement Commission
CMG	Child Maintenance Group
CMP	Child Maintenance Premium
CMPAT	Customer Materials, Procedures and Advice Team
CMS	Customer Management System
CMT	Customer Management Team
CN	Clerical Notification
CNP	Customer Notification Process
COA	Change of Address
COBAP	Corporate Banking and Methods of Payment Group

CoC	Change of Circumstances
CoE	Certificate of Entitlement
CoE	Centre of Excellence
COO	Chief Operating Officer
COP	Corporate Other Payee (DPMG)
CoP	Court of Protection
CPS	Central Prosecution Service
CPA	Care Programme Approach
CPAB	Corporate Personal Acting Body
CPB	Central Pensions Branch
CPCS	Customer Payment Computer System
CPD	Continuous Professional Development
CPIA	Criminal Procedure and Investigations Act
CPMO	Change Portfolio Management Office

CPMS	Change Programme Management System
CPP	Common Payments Package
CPS	Crown Prosecution Service - no longer used as a term.
CPS	Central Payment System
CPS LP	Central Payment System Local Payment
CPT	Central Prosecution Team (Scotland)
CPTMS	Central Processing Team Management Service
CR	Change Request
CRC	Client Referral Centre
CRG	Customer Representative Group
CRL	Computer Record Location
CRM	Client Relationship Manager
CRM	Customer Relations Manager
CRN	Child/Customer Reference Number

CRS	Cheque Regeneration System
CRT	Central Referral Team
CRT	Case Review Team
CRT	Customer Relations Team (DPMG)
CRU	Compensation Recovery Unit
CS	Computer System
CS	Child Support (SRG)
CSA	Customer Service Agent
CSA	Child Support Agency
CSD	Customer Services Directorate
CSL	Civil Service Learning
CSM	Customer Service Manager
CSPSSA	Child Support Pensions and Social Security Act
CSS	Charter Standard Statement

CST	Customer Service Target
CST	Customer Services Team
CT	Correspondence Team
CTB	Council Tax Benefit
CTC	Child Tax Credit
CTC	Countdown To Change
CTF	Child Trust Fund
CTO	Compulsory Treatment Order
CUED	Common Update and Enquiry Dialogue
CVA	Cerebro-vascular Accident

D

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Abbreviation	Meaning
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DAAT	Decision Appeals and Assurance Team
DAGC	Design Approvals and Governance Council
DAP	Death Arrears Payee
DBC	Disability Benefits Centre
DBS	Disclosure and Barring Service
DBR	Detailed Business Requirement
DCI	Departmental Central Index
DCM	District Comms Manager
DCO	Debt Co-ordination Officer
DCP	District Control Point
DCPU	Disability Contact and Processing Unit
DCMU	Digital Case Management Unit (England and Wales)
DCS	Disability and Carer's Service
DCT	Direct Credit Transfer

DDA	Disability Discrimination Act
DDL	Digital Driving License
DDN	District Delivery Network
D&E	Diversity and Equality
DEL	District Expenditure Limit - no longer used as a term. Replaced by the term Departmental Expenditure Limit
DERM	District External Relations Manager
DEX	Dialogue Expert
DFA	Delegated Financial Authority
DH	Department of Health
DHB	Disability Handbook
DIA	Diversity Impact Assessment
DL	Draft Letter
DLA	Disability Living Allowance
DLACS	Disability Living Allowance Computer System

DLO	Dead Letter Office
DM	Decision Maker
DMA	Decision Making and Appeals
DMACR	Decision Making and Appeals case recorder
DMAPT	Decision Making, Appeals and Procedures Team
DMAS	Decision Making and Appeals Service
DMG	Decision Makers Guide
DMPG	Decision Makers Procedural Guide
DMS	Data Matching Service
DMVO	Decision Maker Visiting Officers
DMU	Decision Making Unit
DO	District Office
DOB	Date of Birth
DOC	Date of Claim

DOD	Dater of Death
DOH	Department of Health
DOI	Digital Office Infrastructure
DOSN	District One Service Network
DP	Data Protection
DP	Direct Payment
DP	Disability Premium
DPA	Data Protection Act
DPAD	Direct Payment After Death
DPLO	Data Protection Liaison Officer
DPO	Data Protection Officer
DPRS	Direct Payment Registration System
DPS	Disabled Passenger Scheme
DPTC	Disabled Persons Tax Credit

DQ	Draft Question
DR	Disaster Recovery
DR	Document Retention
DRO	Departmental Records Office
DRS	Document Repository System
DSE	Display Screen Equipment
DST	Department Security Team
DV	Domiciliary Visit
DVLA	Driver and Vehicle Licensing Agency
DWA	Disability Working Allowance
DWP	Department for Work & Pensions

E

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Abbreviation	Meaning
E	Ephemeral
E&D	Equality and Diversity
EA	Employment Act
EAGA	Energy Actions Grants Agency
EAP	Employee Assistance Programme
EAR	Exceptional Activity Report
EC	European Community
ECSMA	European Convention Social and Media Assistance
EDD	Estimated Delivery Date
EDS	Electronic Data Systems
EEA	European Economic Area
EFTA	European Free Trade Agreement
EIA	Equality Impact Analysis

ELUS	ESA Legasuite Update System
EMP	Electronic Media Policy
ENT	Electronic Notification Template
EO	Executive Officer
EPoA	Enduring Power of Attorney
EPR	End of Project review
ER	Evidence Requirements
ES	Employee Services
ES	Employment Service
ESA	Employment and Support Allowance
ESA (C)	Employment and Support Allowance (Contributory)
ESA (IR)	Employment and Support Allowance (Income Related)
ESF	European Social Fund
ET	Executive Team

EU	European Union
EVL	Electronic Vehicle License

F

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Abbreviation	Meaning
F&S	Forecasting and Scheduling Officer
FA	Finance Act
FA	Financial Assessor
FA	Fixed Amount
FA	Fraud Act
FAMIS	Fraud and Management Information Service
FAQ	Frequently Asked Questions
FAR	Fixed Asset Register

FAT	Field Assurance Testing
FBP	Finance Business Partner
FBS	Feeder Benefit Systems
FCA	Forgery and Counterfeiting Act
FED	Fraud Error and Debt
FEDP	Fraud Error and Debt Programme
FEO	Finance Executive Officer
FES	Fraud and Error Service (part of CFCD since 2017)
FEPS	Fraud and Error Prevention Service (CFCD Interventions since 2017)
FI	Fraud Investigator
FI	Financial Investigator
FIA	Financial Investigator Assistant
FIU	Financial Investigation Unit
FLS	Frontline Services

FLSM	Frontline Line Service Management
FM	Finance Manager
FNA	Future needs Assessment
FO	Finance Officer
FOI	Freedom of Information
FOIA	Freedom of Information Act
FPA	Fraud Partnership Agreement
FPMT	Finance and Performance Management Team
FA	Factual Report
FRAIMS	Fraud Referral and Intervention Management System
FRF	Fraud Referral Form
FRP	Full Record Print
FSCM	Forensic Services Contract Management
FSD	Financial Services Division

FSU	Fraud Support Unit
FTA	Failed to Attend
FTE	Full Time Equivalent
FtT	First tier Tribunal
FVTD	Free Vehicle Tax Disc

G

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Abbreviation	Meaning
G7	Grade 7
GA	Guardian's Allowance
GAD	Genesis Activation Device
GAL	Global Address List
GB	Great Britain

GDN	Group Delivery Network
GI	Cheque
GMC	General Medical Council
GMS	Generalised Matching Service
GP	General Practitioner
GPC	Government Procurement Card
GPFR	General Practitioners Factual report
GTN	Government Telephony Network

H

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Abbreviation	Meaning
H&S	Health and Safety
HASSRA	Health and Social Security Recreational Association

HB	Housing Benefit
HBD	Health and Benefit Division
HBS	Heritage benefit System
HCP	Health Care Professional
HEO	Higher Executive Officer
HFR	Hospital Factual Report
HGU	Higher Grade User
HIL	Higher Investigations Leader (Criminal and Financial)
HLBR	High Level Business Requirement
HMCTS	Her Majesty's Courts and Tribunal Service
HMRC	Her Majesty's Revenue and Customs
HO	Home Office
HOW	Head of Work
HP	Hire Purchase

HPES	Hewlett Packard Enterprises
HPWAR	High Priority Work Available Report
HR	Human Resources
HR	Higher Rate
HRA	Human Rights Act
HRBP	Human Resources Business Partner
HRCC	Higher Rate Care Component
HRMC	Higher Rate Mobility Component
HRT	Habitual Residence Test
HSC	Health Service Circular
HSCP	Health or Social Care Professional
HWWB	Health Work and Wellbeing
HWWD	Health, Work and Wellbeing Directorate

I

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Abbreviation	Meaning
IAAA	Immigration and Asylum Act
IAS	Internal Audit Services
IB	Incapacity Benefit
ICE	Independent Case Examiner
ICT	Information Capture Tool
IDA	Identity Documents Act
IF	Internal Finance
IF1	Incident Reporting Form
IIDB	Industrial Injury Disablement Benefit
IO	Intelligence Officer
IOP	Instrument of Payment
IPCC	Internet Protocol Contact Centre

IRIS	Integrated Risk and Intelligence Service
IS	Income Support
ISCS	Income Support Computer System
ITSM	Information Technology Service Manager
ITD	Information Technology Directorate
IUC	Interview Under Caution

J

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Abbreviation	Meaning
JAWS	Job Access With Speech
JCP	Jobcentre Plus
JID	Joint Intelligence Desk
JSA	Jobseeker's Allowance

JSAPS	Jobseekers Allowance Computer System

K

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Abbreviation	Meaning
KIT	Keeping In Touch
KM	Knowledge Management
KMI	Key Management Indicator
KPG	Key Performance Groups
KPI	Key Performance Indicators
KWO	Key Work Objective
KHUB	Knowledge Hub

L

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Abbreviation	Meaning
LA	Local Authority
LAD	Learning Appliance Device (Server)
LAF	Learning Assessment Framework
LAS	Live Activity Schedule
L&D	Learning and Development
LEP	Local Employer Partnership
LAIEF	Local Authority Information Exchange Form
LGC	Local Government Chemists
LIMP	Local Incident Management Plan
LM	Line Manager
LMA	Line Managers Assurance
LMS	Labour Market System
LMU	Labour Market Unit

LNA	Learning Needs Analysis
LOBP	Loss of Benefit Provision
LSC	Local Service Compliance (Compliance since 2017)
LSAO	Local Service Administrative Officer (CFCD Administrative Officer since 2017)
LSCO	Local Service Compliance Officer (Compliance Officer since 2017)
LSCTL	Local Service Compliance Team Leader (Compliance Team Leader since 2017)
LSI	Local Service Investigations (Investigations since 2017)
LSIO	Local Service Investigations Officer (Investigations Officer since 2017)
LSITL	Local Service Investigations Team Leader (Investigations Team Leader since 2017)
LSA	Local Service Admin (CFCD Operational Admin since 2017)
LSSIL	Local Service Senior Investigations Leader (Senior Investigations Leader since 2017)
LPs	Lone Parents
LST	Land Securities Trillium

LTAHW	Living Together as Husband and Wife
LTM	Leadership Team Meeting

M

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Abbreviation	Meaning
MA	Maternity Allowance
MaSH	Management and Safety of Health (MaSH) Toolkit
MCF	Multi-Client Forum
MEC	Medical Examination Centre
MI	Management Information
MIDAS	Matching Intelligence and Data Analysis
MISP	Management Information System Programme
MOSAIC	Mail Opening Scanning and Image Circulation

MOU	Memorandum of Understanding
MOU	Mail Opening Unit
MSRS	Medical Services Referral System
MVA	Monetary Value Adjustment
MVFE	Monetary Value of Fraud Error

N

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Abbreviation	Meaning
NAO	National Audit Office
NAFN	National Anti Fraud Network
NBFH	National Benefit Fraud Hotline
NCA	National Crime Agency
NDU	National Disclosure Unit

NEET	Not in Employment, Education or Training
NFA	No Further Action
NFS	National File Standard
NIC	National Insurance Contribution
NIFU	National Identity Fraud Unit
NINO	National Insurance Number
NIP	National Implementation Plan
NISSA	Northern Ireland Social Security Agency
NJI	New Jobseekers Interview
NMT	Network Management Team (Mgt of CC call traffic)
NOC	Notification of Change
NPIA	National Policing Improvement Agency
NSD	Network Services Directorate

O

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Abbreviation	Meaning
OAG	Operational Assurance Group
ODN	Operational Delivery Network
OED	Operational Excellence Directorate
OGD	Other Government Department
OGLAs	Operational Go Live Assurance
OHS	Occupational Health Service
OIAS	Operational Impact and Assurance Service
OIU	Operational Intelligence Unit
OL	Operational Lead
OLMU	Operational Line Managers Update
OMAT	Operational Management Assurance Team
OOS	Out of Scope

OP	Overpayment
OPSTRAT	Operational Strategy System
ORR	Operational Readiness Review
OSN	One Service Network
OU	Organisational Unit
OV	Official Vehicle

P

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Abbreviation	Meaning
PA	Put Away
PACE	Police and Criminal Evidence Act
PACS	Programme Accounting Computer System
PCA	Personal Capability Assessment

PCM	Performance and Culture Manager
PCN	Project Critical Network
PCP	Pensions Contact Point
PDCS	Pensions, Disability and Carers Service
PDCS	Personal Details Computer System
PDP	Personal Development Plan
PDQ	Pre Defined Query
PF	Procurator Fiscal
PID	Personal Identification Device (smartcard)
PinS	Professionalism in Security
PIP	Personal Independence Payment
PIP	Personal Improvement Plans
PIPCS	Personal Information Payment Computer System
PIPIS	Personal Information Payment Information System

PM	Performance Manager
PMG	People Matters Group
PO	Purchase Order
PoCA	Proceeds of Crime Act
POCA	Post Office Card Account
PPQ	Programme Protection Query
PQ	Parliamentary Question
PRISM	Post Release Implementation Support and Maintenance
PSA	Public Service Agreement
PSCS	Pensions Service Computer System
PTP	Pensions Transformation Program
PUS	Private User Scheme
PV	Potentially Violent

Q

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Abbreviation	Meaning
QA	Quality Assurance
QAF	Quality Assurance Framework
QR	Quality Review

R

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Abbreviation	Meaning
R&R	Reward and Recognition
RA	Reasonable Adjustment
RA	Risk Assessment
RACI	Reasonable Accountable Consulted Informed - term no longer in use. Replaced by the term Responsible Accountable Consulted Informed

RAD	Risk Assurance Division
RAG	Red/Amber/Green
RBD	Reduced Benefit Direction
RER	Referral Enhancement Routing (Case Preparation since 2017)
RFI	Request For Information
RIPA	Regulation of Investigatory Powers Act
RM	Resource Management
RM	Risk Management
RMS	Referral Management System
RP	Retirement Pension
RTE	Real Time Earnings
RTI	Real Time Information
RTPi	Request To Pay Integration

S

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Abbreviation	Meaning
SASI	Share and Support Interviews
SCCS	Secure Compliance and Checking System
SDA	Severe Disablement Allowance
SDC	Service Delivery Co-ordinator
SDM	Service Design and Management
SDP	Severe Disability Premium
SF	Social Fund
SFCS	Social Fund Computer System
SFIS	Single Fraud Investigation Service
ShSVCS	Shared Services
SIL	Senior Investigations Leader (Criminal and Financial)
SIL	Senior Intelligence Leader

SLA	Service Level Agreement
SLOC	Site Location Code
SLSPOC	Service Line Single Point Of Contact
SLT	Senior Leadership Team
SMP	Statutory Maternity Pay
SMS	Small Message Service
SMT	Senior Management Team
SOC Investigator	Serious and Organised Crime Investigator
Soc Invesigator Assistant	Criminal Serious Organised Crime Investigator Assistant
SOCA	Serious Organised Crime Agency
SOCC	Strategic Operational and Campaign Centre
SOM	Standard Operating Model
SoS	Secretary of State
SPOC	Single Point Of Contact

SPVA	Service Personnel and Veterans Agency
SRO	Senior Responsible Officer
SSAA	Social Security Administration Act
SSAFA	Social Security Administration (Fraud) Act
SSMART	Stretching Specific Measurable Achievable Realistic Time Bound
SSP	Statutory Sick Pay
SSPB	Shared Services Programme Board
SUO	System Update Officer

T

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Abbreviation	Meaning
TA	Theft Act
TAM	Treat as Made

TAS	Treat as straightforward
TASSA	Technical and Site Support Assurance
TBC	To Be Confirmed
TC	Tax Credit
TCA	Tax Credit Act
TCV	Total Corrective Value
TDA	Temporary Duties Allowance
TIC	Taken Into Consideration
TIDV	Telephony Identity Verification
TL	Team Leader
TNA	Training Needs Analysis
TOR	Terms Of Reference
TP	Training Providers
TPMD	Transformation Products Management Directorate

TS	Tribunal Service
TTP	Transferring Telephony Project
TUPE	Transfer Under Protection of Employment
TUS	Trade Union Side

U

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Abbreviation	Meaning
UC	Universal Credit
UCB	Unacceptable Customer Behaviour

V

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Abbreviation	Meaning

VC	Video Conference
VFM	Value For Money
VIC	Virtual Information Centre
VT	Virtual Team

W

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Abbreviation	Meaning
WAR	Work Available Report
WB	Widows Benefit
WCA	Work Capability Assessment
WFHRA	Work Focused Health Related Assessment
WFI	Work Focused Interview
WFP	Work Force Planning

WLU	Welsh Language Unit
WRA	Welfare Reform Act
WSD	Work Services Directorate
WSP	Work Service Provision
WTE	Whole Time Equivalent
WWG	Welfare and Wellbeing Group

X

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Abbreviation	Meaning
XGSG	Cross-Government Solutions Group

Y

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Abbreviation	Meaning

Z

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Abbreviation	Meaning

Abroad Fraud

00 Introduction

This section deals with any periods of absence abroad that the claimant has not disclosed to the Department for Work and Pensions (DWP) for the purposes of assessing benefit entitlement.

For the purpose of this guide, the term Abroad is used to describe absence outside the United Kingdom (UK).

Periods of absence abroad and Department for Work and Pensions benefits

The majority of Department for Work and Pensions (DWP) benefits are affected by un-notified absence abroad. It is vital where applicable, investigators are familiar with the conditions of entitlement to individual benefits, and consideration is given to Local Authority benefits when conducting investigations.

Where the claimant is found to be outside of the UK at the time of the investigation, and specifically at the point when an Interview Under Caution (IUC) is being planned, consideration must be given to the likelihood of a return. [Submission for Extradition back to UK](#)

01 Investigations

Action upon receipt of a new case

Upon receipt of a new case alleging that the claimant, or their dependants, have undisclosed periods of absence abroad, the investigator must review all appropriate documentation to confirm the validity of the allegation.

Cases with Abroad Fraud as the primary offence type will have been triaged by the Abroad Fraud Triage Team in **[Redacted]**.

A Fraud Referral Form (FRF) submitted into FRAIMS with this offence type will be automatically routed to the Abroad Fraud Inbox **[Redacted]**.

Serviced by the Abroad Fraud Triage Team, this team is responsible for a one-stop sift of cases with the Abroad Fraud offence type. The team will review the FRF, check Customer Information System (CIS), legacy and benefit conditionality sift sheet (Local Guidance Document) to assess correct routing

Following the sift, referrals can be:

- closed No Fraud Action
- transferred to Compliance
- referred to Investigations
- referred to Serious and Organised Crime.

All cases sifted by the team will display **AF Routing Minute** in the activity Description field.

If the primary offence is not identified as abroad fraud, but an abroad fraud suspicion becomes apparent during the investigation, the investigator requests information by completing a Request for Information (RFI) and sending it to the Abroad Fraud Intelligence Unit for enquiries to be carried out by the Criminal Intelligence Officer (CIO).

General Matching Service (GMS) referrals involving postal redirection abroad, which are received without this initial abroad fraud triage activity, must be redirected to the Abroad Fraud Triage Team Inbox **[Redacted]**.

Specific travel data obtained by the Abroad Fraud Intelligence Unit from Border Force / NBTC is provided as intelligence only and therefore cannot be used at an Interview Under Caution (IUC) or exhibited in court. The Investigator must approach the airline / carrier concerned under DPA 29 to confirm the travel data and/or obtain a witness statement. This evidence can then be shown at IUC and exhibited in court.

To facilitate the transfer of intelligence to evidence, the Abroad Fraud Intelligence Unit will supply the Investigator with up to date airline / carrier contact details when they attach the travel data reply to FRAIMS.

Checking existing records

The investigator must try to obtain original claim forms and any subsequent reviews to establish if the claimant has at any time declared periods of absence abroad, or other changes of circumstances.

Checks must also be made to ensure that a Decision Maker has not already made a decision regarding the alleged period of absence abroad. Details of all enquiries made must be recorded on FRAIMS.

The investigator must consider checking any other claims to benefit, made by the claimant, to ensure that any periods of un-notified absence abroad do not cover any previous claims made.

Consideration must be given as to whether further information can be obtained by cross referencing with other data held by the Department for Work and Pensions (DWP) and/or Local Authority (LA), such as other benefit claims, tenancy agreements, council tax records and right to buy records.

Obtaining information

When gathering evidence, the investigator must look at all available lines of enquiry in an attempt to establish the full extent of the fraud and provide the Crown Prosecution Service (CPS)/the Crown Office and Procurator Fiscal Service (COPFS) with sufficient evidence to prosecute the case.

There is a requirement for the case to be evidentially sound wherever possible, prior to the claimant being interviewed under caution.

For details of lines of source/intelligence/evidence, see [02 Avenues of enquiry](#).

Interview Under Caution

Claimant in the United Kingdom

If the claimant is known to be in the United Kingdom (UK), consideration must be given as to whether an arrest is appropriate, England and Wales (E&W) only. Particular consideration must be given as to whether the claimant is considered a flight risk. See [Arrests](#).

If an arrest is not considered appropriate, the claimant must be invited in for an [Interview Under Caution](#) (IUC). Applicable to both England and Wales and Scotland, it is recommended that the IUC appointment letter is delivered by hand or sent by recorded delivery. Record details on FRAIMS and in the investigator's notebook.

Claimant out of the United Kingdom

If the claimant is thought to be outside the United Kingdom (UK), the investigator must consider if there is enough evidence to show that an offence has been committed. Where appropriate, a request must be made to a Decision Maker to [suspend benefit](#).

If contact is received from the claimant as a result of the suspension of benefit, the investigator must attempt to arrange an IUC/arrest.

Any communications with the claimant must be recorded in the N1 notebook.

If no contact is received following the suspension decision, refer the case to a Decision Maker. See Fraud Guide - [Decision Making](#).

The absence of an IUC does not mean that criminal proceedings cannot be taken.

02 Submission for Extradition back to UK

To progress towards consideration of extradition the Investigator and their team leader must discuss the case within a Case Conference, as such cases are always to be considered as complex. [Request case advice on FRAIMs. \(link is external\)](#)

At the Team Leader Case Conference consider:

- In all cases request that a “ ‘flag’ ” (previously referred to as ‘NIFU’ on Customer Information System (CIS) is raised. If this is agreed, then follow ‘[Flagging suspect or vulnerable accounts \(link is external\)](#)’ procedure and engage with the National Identity Fraud Intelligence Desk and make a note in the case conference.
- A submission to the Abroad Fraud Intelligence desk for a Border Force watch list notice, by following National Standards Instructions (NSIM) procedures and issuing form ‘[PA3](#) (Application for extradition or for a Border Force flag’.
- If it has not already been done, a referral must be made to the [FIU team \(link is external\)](#) at any value of overpayment if extradition is to be considered. They in turn will liaise with Debt Recovery where appropriate.

If there is agreement to seek the option of an extradition, the team leader must then engage with their SEO/ (Serious and Organised Crime equiv) to agree if a referral to Policy/Legal is warranted. This discussion may be informal but the outcome must be noted within the case conference in FRAIMs.

Criteria for Extradition case conference: Sentencing potential of 12 months or more

For a case to be considered for Extradition, it is policy that the offence needs to be realistically likely to be subject to a potential sentence of 12 months or more, or that there is demonstrable impact of significant public interest such that progression of the case is paramount. (Such as a notorious criminal or other joint interests – This would be evidenced by a police interest). [CPS Guidance \(link is external\)](#).

This would normally be considered to apply where the overpayment was over £100,000. It may however apply where the overpayment is over £50,000 were multiple agency interest applies or the person concerned has a notoriety such that DWP policy may consider pursuit to be in the public interest.

Offences Guidance:

- Dishonest representations for obtaining benefits etc – [Social Security Administration Act 1992 \(Section 111A\)](#) = Offence range up to 6 years 6 Months custody. [Dishonest representation sentencing guide \(link is external\)](#) explanation example. [Definitions guidelines \(link is external\)](#).
- False representation for obtaining benefit etc – [Social Security Administration Act 1992 \(Section 112\)](#) = Offence range up to 12 Weeks custody.
- Fraud by false representation, fraud by failing to disclose information, fraud by abuse of position – [Fraud Act 2006 \(Section 1\)](#) = Offence range up to 8 Years custody.

Consideration of Extradition to the UK

Outgoing extradition requests to countries other than those which operate the EAW system (ie category 1 territories) fall outside the scope of the 2003 act and are made under the royal

prerogative. The International Corruption Unit (ICU) at the Home Office forwards extradition requests that have been prepared by the prosecuting authorities in England and Wales and Northern Ireland (eg CPS, Serious Fraud Office or Public Prosecution Service Northern Ireland) to the requested state through the diplomatic route.

The Crown Office and Procurator Fiscal Service (COPFS) deals with Scottish outgoing extradition requests, these are also transmitted to the requested State through diplomatic channels.

An outgoing request can either be:

- a full order request (ie a request which fully complies within the requirements of the relevant treaty or other international arrangement with the requested state)
- a request for provisional arrest - this is made when someone is known to be in a particular country but where there is insufficient time to prepare a full request, because the person is deemed to be a flight risk

Where a request for provisional arrest is accepted, the person will usually be arrested in the requested state before extradition papers are formally submitted. When someone is provisionally arrested there is a deadline within which the papers must be submitted. This deadline is set out in the treaty or other arrangements governing extradition arrangements with that state. ICU liaises with the relevant prosecuting authority to make sure the papers are delivered in enough time for ICU to dispatch them.

Extradition is more likely where the person of interest is known to be within category 1 territories of the EAW: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Gibraltar, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain or Sweden.

Case discussion with Policy

Once the SEO has given approval for a request for a discussion with Policy. An email to request a case conference must be sent to DWP Fraud, Error and Debt Strategy and Policy Division [Policy Abroad Fraud SPOC \(link sends e-mail\)](#), with an outline of the justification as agreed with the SEO/ (Serious and Organised Crime)

Form 'PA3 (Application for extradition or for a Border Force flag' must be included with any request. This will acknowledge that all reasonable efforts have been made to establish contact, by checking with neighbours, known family, NHS, through E Borders, and by telephone to any live mobile to invite attendance at an IUC. These actions must be recorded onto FRAIMs.

A full set of papers prepared for submission to CPS may also need to be shared, and must therefore be made ready.

If the case discussion with Policy supports a referral to CPS for extradition action, a full case preparation will be undertaken along with the usual Investigator/Team leader discussion.

An email must be sent to [CCIS Abroad Fraud SPOC \(link sends e-mail\)](#) to alert them of the case. Once the court application has been cleared and an abroad arrest is in hand, an update email must include the full submission given to CPS along with a draft IUC plan.

If the person returns to the UK under normal means, then the Border Force 'watch list' alert will inform the Investigator of the return, and subsequent action will be taken as agreed with their manager.

If the person returns to the UK under arrest, upon receipt of the Advance Passenger Information System notice via the Abroad Fraud intelligence desk, a case discussion will need to agree the first contact arrangements. This may be by the SOC team if the return is out of hours, or by local action if within normal business hours.

Bringing a requested person back to the UK

Once a requested person is available for surrender, the International Corruption Unit (ICU) at the Home Office will be notified by the British Embassy or High Commission, or the police will be notified by Interpol.

The police (usually from the force where the original arrest warrant was issued) then collect and escort the requested person back to the UK. ICU will forward the officers' travel arrangements to the relevant British Embassy or High Commission and can provide a letter of introduction for officers, which will allow them to bring the requested person back.

03 Avenues of enquiry

Source	Intelligence	Evidence
Abroad fraud borders intelligence	Entry/exit dates Address abroad (Spain - Padron) Visa applications Immigration status Airline details	Will on most occasions only be used as intelligence Witness statement
Social media Face book, Twitter	Home page Status Pictures Activities location	May identify potential sources of evidence
Banks/ Building Societies	ABM activity (intelligence) Travel transactions (airlines, etcetera) Address held? Insurances Wages	Witness statement from airline. Change of address forms Loan applications New policy/cancellation-witness statement Employer identified abroad-witness statement.
Educational establishments	Child still registered or taken out of school.	Witness statement with appropriate exhibits

	<p>New school details</p> <p>Emergency contact details</p>	
Customer makes contact	<p>Rebuttal evidence</p> <p>ESA, IS, Pen Credit, State Retirement Pension</p> <p>Voice recordings?</p> <p>LA, HMRC, utilities</p> <p>Contact with CFCD (record in N1 notebook)</p>	<p>Witness statement</p> <p>Transcript</p> <p>CFCD witness statement</p>
UK address occupied	<p>Rented-Landlord?</p> <p>LA HB/CTB</p> <p>Tenancy/New Tenant?</p> <p>Owner occupier?</p> <p>Land registry,</p> <p>Electoral roll</p> <p>Relatives</p> <p>Estate Agents</p> <p>Mortgage details</p> <p>Mail re-direction</p>	<p>Witness statements</p> <p>In public domain and can be exhibited by CFCD</p> <p>Witness statements</p>
Medical records	<p>Attendance records?</p> <p>Registration details</p> <p>Contact details</p>	<p>Witness statement where possible</p>
UK address empty	<p>Neighbours</p> <p>Utilities - usage levels</p>	<p>Witness statements</p>
Royal Mail	<p>Redirected post?</p>	<p>Witness statement re: address abroad</p>

This list is not exhaustive

Administrative Penalties

00 Introduction

1. An Administrative Penalty (Ad-Pen) is a financial penalty, which can be offered as an alternative to prosecution where there has been no previous fraud penalty of any form, for example, Caution, Ad-Pen or prosecution within the previous 5 years.

2. A case can only be considered for an Ad-Pen when it is suitable for prosecution at the outset as defined by the [Departmental Prosecution Policy \(link is external\)](#).

3. An Ad-Pen cannot be imposed, they must be offered. If the offer of an Ad-Pen is rejected or ignored, prosecution must be recommended to the relevant prosecuting authority. If a person agrees to pay an Ad-Pen, the Department for Work and Pensions (DWP) will not institute proceedings against them.

4. The decision to offer an Ad-Pen is made on behalf of the Secretary of State. There is no right of appeal against the decision nor can the person ask the Secretary of State to review the amount of the Ad-Pen.

5. Ad-Pens can be issued to:

- Claimants who have committed, or attempted to commit, benefit fraud
- Employers who have employed claimants, who have committed fraud; and where the employer has condoned, hidden or assisted the claimant in committing the fraud, can be offered an Employer Ad-Pen.

6. In this guidance, the term claimant refers to claimants, partners or third parties, other than employers, who have committed benefit fraud.

7. Ad-Pens can be offered by DWP and Local Authorities (LAs) where there is an overpayment of HB/CTB or CTR. The LA continues to be responsible for making the decision to offer an Ad-Pen.

8. Where there are overpayments of benefits issued by both organisations concerned, one organisation can delegate the responsibility for the decision to offer an Ad-Pen to the other. They can also arrange to work together and offer an Ad-Pen jointly.

Administrative Penalties

9. An Ad-Pen can only be offered:

- in respect of an overpayment or a part of an overpayment that accrued after the commencement date of 18 December 1997
- for an offence relating to the overpayment upon which the Ad-Pen is based
- where a previous fraud penalty, of any type, has not been implemented in the previous five years
- where an attempt to commit benefit fraud has resulted in no overpayment being made
- where a case is suitable for prosecution action
- where the case is not so serious that the first option should be prosecution.

Employer Administrative Penalties

10. An Employer Ad-Pen can only be offered:

- in respect of an offence that occurred after the commencement date of 30 April 2002
- for an offence by the employer.

11. The Ad-Pen amount is based on the circumstances of the offence.

The legislation

1. The legislation governing the use of Administrative Penalties (Ad-Pens) is contained within section 115A and 115B of the Social Security Administration Act 1992, as amended by the Welfare Reform Act 2012.

2. The legislation governing the use of Ad-Pens is contained in Section 115A of the Social Security Administration Act 1992 inserted by the Social Security Administration (Fraud) Act 1997, which came into force on 18 December 1997.

3. The legislation governing the delegation of the function of offering Ad-Pens is contained in Section 115A Subsections (7A) and (7B) inserted by the Social Security Fraud Act 2001, which came into force on 30 April 2002.

4. The legislation governing the use of Employer Ad-Pens is contained in Section 115B of the Social Security Administration Act 1992 inserted by the Social Security Fraud Act 2001, which came into force on 30 April 2002.

5. The Social Security (Penalty as an alternative to prosecution) (Maximum Amount) Order came into force on 1st April 2015 and raised the maximum amount of the Ad-Pen to £5,000 for overpayments which began wholly on or after 1 April 2015. From 8th May 2012 until 31st March 2015 the maximum amount of Ad-pen was £2000.

01 Administrative Penalty criteria

When can an Administrative Penalty be considered?

Cases where an Administrative Penalty may be considered

An Administrative Penalty (Ad-Pen) can only be offered when Investigations are satisfied there are grounds for instituting criminal proceedings.

It is therefore important that the investigation is conducted to the criminal standard required for prosecution. In claimant cases, all decision making must also have been completed.

Cases where prosecution is not the first option at the outset, may be suitable for the offer of an Ad-Pen. There is no requirement for the person to admit to the offence before an Ad-Pen can be offered.

In the event of the person declining to agree to pay an Ad-Pen, always consider criminal proceedings against the person unless exceptional circumstances apply, for example:

- the person's health deteriorates dramatically before proceedings can be instigated
- legal advice from the prosecuting authority recommends the case is no longer appropriate for proceedings.

Conditions that must apply in Administrative Penalty cases

The following conditions must be satisfied before a person is offered the choice of agreeing to pay an Ad-Pen:

- the case is not so serious that the first option should be prosecution
- there are grounds to institute criminal proceedings. This includes the need to ensure that there has been no unusually long or inexcusable delay in the investigating or administration of the case particularly where this may lead to the case being time-barred.

In addition the following must also apply in Ad-Pen cases:

- the person has been notified of Department for Work and Pensions (DWP)/Local Authority (LA) Decision Maker's (DM) decision and appeal rights on the amount and recoverability of the overpayment
- the recoverable overpayment is over £50
- but below the threshold which prosecution would be the first consideration (unless attempt only where no overpayment exists).
- if the overpayment started before 18 December 1997, the date Ad-Pens were introduced, an Ad-Pen can only be offered on that part of the recoverable overpayment, which has accrued since that date
- in a failure to report a change of circumstances case, where no false statement exists, an Ad-Pen can only be offered if the whole of the overpayment occurred after 1 December 2001, the date this offence was introduced
- the person has attempted to commit fraud but no overpayment has occurred.

In all cases the LA will decide if an Ad-Pen is appropriate for elements of the Housing Benefit (HB) and prior to 1st April 2013 the Council Tax Benefit (CTB) or post 1st April 2013 Council Tax Reduction (CTR). This decision is obtained using the [AG1 \(link is external\)](#) and the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form).

For overpayments of under £2000 prior to 1st April 2015 or under £5000 on or after 14th August 2017, the decision to prosecute or offer an Administrative Penalty will be made by the HEO. However where exceptional circumstances apply an Administrative Penalty can be offered where the overpayment limits exceed the £2000 and the £5000 threshold, but this needs approval from the Investigations Senior Leader (SEO). This should rarely happen and a full explanation of the justification of this decision must be recorded on FRAIMS by the Investigations Senior Leader.

The reason for the Team Leader (HEO) Investigations Senior Leader (SEO) decision must be detailed in the appropriate Case Activity Description field and the activity updated before returning it to the originator, see [FRAIMS Guidance - Fraud Penalty - Manager's actions](#). The case must be prosecutable therefore it is not appropriate to consider the offer of an Ad-Pen in cases where prosecution has been ruled out, for example due to social or health factors, or points to prove have not been established.

If the case goes to prosecution and, following representations from the defence solicitor, the prosecuting authority recommend that an Ad-Pen is offered to the claimant as the most appropriate means of disposing of the case, it will not be necessary to obtain a separate decision from the Team Leader/Higher Investigations Leader.

For information related to Universal Credit attempted fraud cases, see: [Attempted Fraud cases linked to Universal Credit \(UC\)](#).

Administrative Penalty option inappropriate

For cases where the Interview under Caution is conducted on or after the 14th of August 2017 - an Administrative Penalty should normally be the first consideration where the total recoverable overpayment is less than £5,000, unless aggravating factors apply. Prosecution should normally be considered in the first instance for overpayments higher than £5,000, each case should be judged on its own merits.

In all cases the LA will decide if an Ad-Pen is appropriate for the HB/CTB (prior to 1 April 2013) element of the case. This decision is obtained using the [AG1 \(link is external\)](#) and the [LAIEF \(link is external\)](#).

The types of case where prosecution should normally be the preferred option are listed below. The list is not exclusive or exhaustive and each case should be judged on its own merit, balancing aggravating factors with any mitigating factors. This is determined by the Team Leader/Higher Investigations Leader.

Cases where the total recoverable overpayment as decided by the decision making unit, including HB and CTB (prior to the 1st April 2013), and exceeds the Ad-pen limits of either £2000 or £5000 (after 14th August 2017), and no one or more of the following factors are revealed during the investigation, refer the case for prosecution:

- false identities or other personal details have been used
- official documents have been altered or falsified
- the person concerned occupied a position of trust
- there is evidence of premeditation or organised fraud
- the person has been previously convicted or received a penalty for benefit fraud in the last five years
- the offer of an Ad-Pen is not accepted.

This list is not exhaustive

Checking for previous fraud penalties held

An Ad-Pen should not be considered if the claimant has received a fraud penalty for a previous benefit offence during the preceding five years.

Details of the outcome of previous cases are recorded in FRAIMS on the Contact record for the individual. By interrogating the Contact Legal Outcome, Caution or Penalties view it can be determined if, during the previous five years, the claimant has:

- been convicted of benefit fraud
- agreed to pay an Ad-Pen
- accepted a Caution.

In cases where one organisation is requesting agreement to offer an Ad-Pen on behalf of the other it will be the responsibility of the requesting organisation to obtain details of previous fraud penalties prior to requesting agreement to delegate the function.

Administrative Penalty calculation

1. The claimant has a statutory right of appeal against the Decision Makers (DM's) decision on the amount of a recoverable overpayment.

2. A person has no right of appeal against the Secretary of State or the Local Authority (LA) decision to offer and recover an Administrative Penalty (Ad-Pen).

3. For offences committed prior to, or spanning 8 May 2012, the amount of the Ad-Pen(s) is set by statute and is 30% of the recoverable overpayment, rounded down to the nearest whole penny.

For offences committed wholly prior to the 8th of May 2012 the Ad-Pen will be calculated at 30% and applied:

- if the overpayment started before 18 December 1997, the date Ad-Pen were introduced, an Ad-Pen can only be offered on that part of the recoverable overpayment, which has accrued since that date
- in a failure to report a change of circumstances case, where no false statement exists, an Ad-Pen can only be offered if the whole of the overpayment occurred after 1 December 2001, the date this offence was introduced.

4. In cases where more than one recoverable overpayment has been calculated for the same offence type but for different periods of offence and where one or more of the offences commenced prior to 08 May 2012 the total overpayments will be aggregated to calculate the

amount of the Ad-Pen. In these circumstances the Ad-Pen will be calculated as 30% of the total overpayment.

5 For offences committed wholly on or after 8 May 2012 up until 31 March 2015, the minimum amount of Ad-pen is £350 and for any overpayment total in excess of £700 the Ad-pen is set to 50% of the recoverable amount, rounded down to the nearest penny, with a maximum amount of £2000.

6. For offences committed wholly on or after 1 April 2015 the minimum amount of an Ad-pen remains at £350, but the maximum amount increases to £5000.

7. If any of the overpayments commencing after 8 May 2012 relate to a completely different offence, for example offences prior to 8 May 2012 were failure to declare employment, and after 8 May 2012 was Living Together (LT), the Ad-Pen for the overpayments prior to 8 May will be calculated at 30% of the overpayment. The amount of the separate overpayment for LT will be calculated as either £350 or 50% of the recoverable overpayment.

Attempt only - No overpayment

8. An Ad-Pen may be offered where an offence of benefit fraud has been committed but the fraud is discovered and stopped before any overpayment of benefit is made.

9. In these cases the amount of the Ad-Pen is £350. For recording purposes, a non-recoverable overpayment of £00.00 must be recorded on Fraud Referral and Intervention Management System (FRAIMS).

10. The following table provides details of the various Ad-Pen limits applied by DWP:

Total overpayment amount	Administrative Penalty amount
Attempted fraud - No overpayment	£350
£700 or under	£350
Over £700	50% of the total overpayment(s)
Maximum Ad-Pen offences wholly on or after 1st April 2015 = £5,000 offences beginning before 1st April 2015 = £2,000.	

11. When there has been more than one benefit in payment over any period identified at the same time, the total amount of the overpayments must be considered, to determine if an Ad-Pen is appropriate.

Example:

- If there is an Income Support (IS) overpayment of £400 and a Carer's Allowance (CA) overpayment of £250, both overpayments should be added together to produce an overall overpayment of £650.
- The total figure is the amount to consider when deciding whether an Ad-Pen or prosecution is appropriate. In this scenario, an Ad-Pen of £350, recorded against the highest overpayment on FRAIMS, would be considered appropriate.

Example:

- If there is an Income Support (IS) overpayment of £300 and a Housing Benefit (HB) Council Tax Benefit (CTB) overpayment of £350, both overpayments should be added together to produce an overall overpayment of £650. **The totalled figure** is the amount to consider when deciding whether an Ad-Pen or prosecution is appropriate. In this scenario an Ad-Pen of £350, split 50/50 between DWP and the LA, would be considered appropriate. For recording purposes this should be recorded on FRAIMS as £175 against the highest DWP benefit in payment and £175 against the highest LA benefit in payment.
- Both income-based and contribution-based Jobseeker's Allowance is treated as one benefit.
- Where the overpayment is over £700, the Ad-Pen is calculated at 50% of the total recoverable overpayment rounded down to the nearest penny, to a maximum of either £2,000 or £5,000, dependent on when the offence was committed.

Example:

- Overpayment = £1,033.87
- Administrative Penalty = £1,033.87 x 50% = £516.935
- Actual Administrative Penalty = £516.93

Example (offence pre 1 April 2015):

- If there is an Income Support (IS) overpayment of £1,200 and a Housing Benefit (HB) Council Tax Reduction (CTR) overpayment of £3,000, both overpayments should be added together to produce an overall overpayment of £4,200.
- The total figure is the amount to consider when deciding whether an Ad-Pen or prosecution is appropriate. If in this scenario prosecution is not considered appropriate, an Ad-Pen of £2,000, split 50/50 between DWP and the LA, would be appropriate.
- For recording purposes this should be recorded on FRAIMS as £1,000 against the highest DWP benefit in payment and £1,000 against the highest LA benefit in payment despite the fact that the HB or CTB overpayment is significantly higher than the IS overpayment.
- If the total amount of the overpayment is between £700 and £4,000 (for case prior to 01/04/2015) or between £700 and £10,000 (for cases wholly after 01/04/2015) the Ad-Pen will be 50% of the recoverable overpayment with each organisation recording 50% of their actual overpayment.

Example (offence post 1 April 2015):

- If there is an Income Support (IS) overpayment of £5,840 and a Housing Benefit (HB) overpayment of £3,640, both overpayments should be added together to produce an overall overpayment of £9,480. An Ad-Pen of £4,740 should be recorded on FRAIMS accordingly.
- Overpayments = £5,840 and £3,640
- Combined total overpayment = £9,480 (suitable for Ad-Pen at 50%)
- Ad-Pen = £9,480 x 50% = £4,740).

Recording on FRAIMS:

- DWP overpayment / Ad-Pen = £5,840 x 50% = £2,920
- LA overpayment / Ad-Pen = £3,640 x 50% = £1,820
- Combined Ad-Pen amount = £2,920 + £1,820 = £4,740
- To update FRAIMS see LINK Section 63 (certain section within).

Separate period of offending

12. If, during the course of an investigation, it is established that a person has committed fraud on two or more separate occasions during the period under investigation, these could be different types of offences, each occasion must be covered within the same Interview Under Caution (IUC).

Example:

A person works whilst claiming benefit for four weeks during April then gives up the job. For two weeks in May, the person does not work and continues to claim benefit. In the third week in May they start work for a different employer and work for a further four weeks whilst claiming. The fraud is detected and the person is interviewed under caution about both periods of working and claiming.

The Decision Maker will calculate the overpayments, one for each period of offence.

Where there is more than one overpayment, add together the total of the overpayments to establish whether the case is suitable for an Ad-Pen or prosecution action. Overpayments relating to separate offences or benefits should be added together and the Ad-Pen calculated on the combined recoverable overpayment.

For FRAIMS purposes, where the resulting Ad-Pen is calculated at 50% of the recoverable overpayments, record each individual benefit and applicable Ad-Pen amount separately. Where a £350 minimum, £5,000 maximum Ad-Pen applies, the total Ad-Pen should be recorded on FRAIMS against the highest overpayment.

Example:

- Overpayments = £527.33 and £443.97
- Combined total overpayment = £971.30 (suitable for Ad-Pen at 50%)
- Ad-Pen = £971.30 x 50% = £485.65 (rounded down to the nearest penny where applicable).

Recording on FRAIMS:

- Overpayment / Ad-Pen = £527.33 x 50% = £263.66(5) (rounded down)
- Overpayment / Ad-Pen = £443.97 x 50% = £221.98(5) (rounded up)
- Combined Ad-Pen amount = £263.66 + £221.99 = £485.65.

For FRAIMS requirements, it may be necessary to 'round up' an Ad-Pen amount to the nearest penny, as above, so that the combined Ad-Pen reflects the Ad-Pen amount calculated against the combined overpayments.

This procedure can only apply where two or more periods of fraud have been discovered, for example, two separate periods of employment with the same or different employers, more than one instrument of payment offence etc. during the course of a single investigation.

Where a period of fraud has already been the subject of a separate investigation followed by Ad-Pen action, do not take Ad-Pen action following any subsequent investigation. Repeat offences should only be considered for prosecution. This is because for fraud penalty action to be effective subsequent offences must be dealt with more severely than previous ones.

Employer Administrative Penalty

1. An Administrative Penalty (Ad-Pen) may be offered to an employer who has committed an offence of:

- making a false statement
- obstructing an Authorised Officer
- failing to provide the required information
- false accounting.

2. When dealing with an enquiry concerning their employees, for example, under section 109B(2) or 109C of the Social Security Administration Act 1992, if it is established that an offence has been committed there must be grounds for recommending proceedings and prosecution must not be the first option.

In these cases the amount of the Ad-Pen is £1,000.

3. However, if the:

- Ad-Pen is being offered to an employer and
- grounds for instigating proceedings against them is because of incitement, conspiracy or aiding and abetting (England and Wales), art and part (Scotland) that facilitates the commission of a benefit offence by employee(s) and
- employer's conduct involves five or more employees.

In these circumstances, the amount of the Ad-Pen is £5,000.

4. In all other cases where the employer has less than five employees the amount of the Ad-Pen is £1,000 multiplied by the number of employees involved in the employer's conduct.

5. Repeat offences should only be considered for prosecution. This is because for fraud penalty action to be effective subsequent offences should be dealt with more severely than previous ones.

02 Administrative Penalty overpayments and appeals

Overpayments

For offences occurring:

Prior to 8th May 2012

Where the criteria for offering an Administrative Penalty (Ad-Pen) are met, the investigator must calculate the 30% Ad-Pen on the recoverable overpayment, which accrued after 18 December 1997, rounded down to the nearest whole penny. Where there is more than one overpayment decision, the 30% Ad-Pen must be calculated for each separate overpayment.

Post 8th May 2012

Where the criteria for offering an Ad-pen are met, the investigator must calculate 50% of the recoverable overpayment with the minimum amount being £350 and up to a maximum of £2000.

Post 1st April 2015

Where the criteria for offering an Ad-pen are met, the investigator must calculate 50% of the recoverable overpayment with the minimum amount being £350 and up to a maximum of £5000.

An Ad-Pen may also be offered in attempt cases where an offence has been committed but the fraud is discovered and stopped before any overpayment of benefit is made.

In these cases the amount of the Ad-Pen is £350. In attempt cases, the person must be shown the Ad-Pen agreement [ADPEN 106C\(A\)](#). ([link is external](#))

The amount of an Ad-Pen is based on the recoverable overpayment, therefore, before an Ad-Pen can be offered, the person needs to know:

- they have been overpaid
- the amount and period of the overpayment
- the reason for the overpayment occurring
- the overpayment is recoverable
- they have the right of appeal against the Decision Makers (DMs) decision.

In all cases, make sure the overpayment notification letter has been issued to the person before they are sent an Ad-Pen notice and an invitation to attend an interview for an Ad-Pen offer to be made.

The decision to delegate the function of offering an Ad-Pen to the other organisation does not affect the procedures in place for calculating and recovering overpayments and notifying amounts of penalties to Investigations.

8. The responsibility for calculating and recovering the overpayment will remain with the organisation that administers the benefit involved.

Debt Relief Orders and overpayments - England and Wales only

9. Debt Relief Orders (DROs) were introduced by the Tribunals, Courts and Enforcement Act 2007 as an alternative to bankruptcy in the United Kingdom (UK). Debtors with limited disposable income and few or no assets can apply for a DRO, which came into force in England and Wales on the 6 April 2009. This is the responsibility of debt management.

Appeals

1. If the person has not already made an appeal at the time Administrative Penalty (Ad-Pen) action is about to commence, contact the section which deals with appeals to confirm an appeal has not been received before continuing Ad-Pen action.

2. Suspend Ad-Pen action if the person appeals against the amount of the overpayment before they are issued with:

- an Ad-Pen notice
 - an invitation to attend an interview for Ad-Pen purposes.
3. Before passing the evidence to the appeals section to deal with the appeal, complete [ADPEN.2 \(link is external\)](#) and a blank [ADPEN.3 \(link is external\)](#).
4. The issue of the ADPEN 2 and 3 must be recorded as an activity on the case on FRAIMS.

5. The Officer dealing with the appeal returns ADPEN.2 Part 2, when the appeal:

- is withdrawn
- is superseded
- is not accepted by the Tribunal
- proceeds.

6. Review the case following the review period, usually after one month. If the Officer dealing with the appeal has not returned the ADPEN.2 Part 2 by then:

- contact them to check whether the appeal is proceeding
 - ask them if they can give an estimate of how long it will take for the appeal to be heard.
7. Record the progress in the in the appropriate Case Activity Description field on FRAIMS.

8. If further contact is made record these separately as a new activity, see [FRAIMS Guidance - Checking Appeal Hearing outcome. \(link is external\)](#)

Return of ADPEN.2 Part 2

9. When the [ADPEN.2 \(link is external\)](#) Part 2 is returned, take the following action depending on the action being taken on the appeal:

Step	Action
Appeal Upheld	Reconsider Ad-Pen action in view of the decision made.
Appeal Withdrawn	Continue Ad-Pen action.
Appeal Superseded	<p>Check the Decision Maker's (DM) revised decision has been issued to the person with the right of appeal.</p> <p>Ensure the Ad-Pen has been recalculated on the revised recoverable overpayment.</p> <p>Continue Ad-Pen action as below unless the revised overpayment exceeds or is below the Ad-Pen monetary limit.</p>
Appeal Not Accepted by	Continue Ad-Pen action

Tribunal	
Appeal Proceeds	<p>Await the outcome of the appeal hearing which will be notified using ADPEN.3.</p> <p>If the appeal proceeds, ask the section dealing with the appeal to try to arrange for an early hearing.</p> <p>Avoid any unnecessary delay in processing an Ad-Pen case.</p>

10. In all cases, unless Ad-Pen action is no longer appropriate, when an appeal has been heard by the Appeal Tribunal body and on receipt of [ADPEN.3 \(link is external\)](#), complete [ADPEN.4 \(link is external\)](#) and [ADPEN.5 \(link is external\)](#) and send them to the Officer dealing with the appeal.

11. Record the issue of the ADPEN 4 and 5 by creating an activity on FRAIMS, see [FRAIMS Guidance – Outcome of the Appeal Hearing Received](#).

12. The Officer dealing with the appeal will retain the forms and notify Department for Work and Pensions (DWP) / Local Authority (LA) if the person appeals to the Social Security Commissioner against the decision of the Appeal Tribunal.

13. Set a Due Date on FRAIMS to check the Appeal Tribunal decision as to whether an appeal to the Social Security Commissioner has been made.

03 Administrative Penalty action

Prescribed forms and actions

1. If a person wishes to agree to pay an Administrative Penalty (Ad-Pen), they must do so in the specified manner. The agreement must be:

- in writing
- on the form provided by the Secretary of State or Local Authority (LA) for this purpose
- signed in front of a Department for Work and Pensions (DWP) or LA witness and
- given at, or following, an interview with a Department of Work and Pension (DWP) or Local Authority (LA) officer when an invitation to pay an Ad-Pen is given on behalf of the Secretary of State or LA

2. The [AG2](#) is used to notify the outcome of the Ad-Pen action, where the function of offering an Ad-Pen has been delegated, and will include a copy of the Ad-Pen agreement form where the Ad-Pen is accepted.

3. This will be completed and sent to the other organisation following the expiry of the 28 day cooling off period for cases prior to May 8th 2012, or 14 day cooling off period for cases on or after May 8th 2012, from and including the day the agreement was signed. The AG2 is signed on behalf of the Secretary of State or LA by the Team Leader, Higher Investigations Leader or LA Fraud Manager.

4. The investigator must notify the LA of the outcome of the Ad-Pen action by completing part 8.3 of the [LAIEF](#) (Local Authority Information Exchange Form). Embed form AG2, and a scanned copy of the Ad-Pen agreement if accepted, and email it to the LA Single Point of Contact (SPOC).

Officers who may issue the Administrative Penalty notice and interview people

1. Administrative Penalties (Ad-Pen) interviews must be conducted by an officer not below the grade of EO (Band C), and who has the relevant training and experience to perform the task competently.

2. To avoid a person attending two separate penalty interviews, for example, one with Department for Work and Pensions (DWP) and one with Local Authority (LA), it is recommended good practice that wherever possible the person should be asked to attend one interview where the offer of penalties in relation to DWP and LA is dealt with.

3. Where penalties for both benefits are being offered, and the function of offering the Ad-Pen has not been delegated, DWP and LA must be represented at the Ad-Pen interview and each must offer the Ad-Pen in relation to the benefit administered by their own organisation.

4. The function of offering an Ad-Pen for Housing Benefit (HB) or Council Tax Benefit (CTB) (prior to 1 April 2013) can only be applied when delegated by the LA.

5. Where the function of offering an Ad-Pen has been agreed, it is recommended that the officer offering the Ad-Pen should be fully conversant with the case.

6. In DWP under no circumstances should the interviewing officer be an officer who:

- interviewed the person under caution or
- was present during the Interview Under Caution (IUC)

7. This is to ensure we avoid a conflict of interest, by allowing a person unconnected with the IUC to offer the claimant an Ad-Pen. Associate a colleague to the case and notify them of the actions to be taken, see [FRAIMS Guidance – Associating a colleague to a case](#).

8. In some LAs staffing levels may mean that an officer present during the IUC has to be the interviewing officer. The interviewing officer for the Ad-Pen must not be the officer who carried out the IUC but may be the second officer provided they did not actively interview the claimant.

Invitation to interview

1. Before a person can be invited to agree to pay an Administrative Penalty (Ad-Pen), the Secretary of State, or Local Authority (LA), must issue a written notice to the person,

2. Do not alter the wording of the written notice it is mandatory and is laid down by statute.

3. The Secretary of State or LA cannot issue a written notice offering an Ad-Pen on behalf of the other until:

- a decision has been made on the benefit overpayment
- a decision has been made that an Ad-Pen is the appropriate way of dealing with the offence and
- there is agreement to delegate the function of offering an Ad-Pen.

4. The person must be invited to attend the office using forms:

- [ADPEN 6A \(link is external\)](#) / [ADPEN 6AW \(link is external\)](#) / [ADPEN 6A JW \(W\) \(link is external\)](#) / [ADPEN 6A JW \(link is external\)](#) (offence committed before MAY 2012) – Administrative Penalty Notice
- [ADPEN 6B \(link is external\)](#)/[ADPEN 6BJW \(link is external\)](#)/[ADPEN 6BW \(link is external\)](#)/[ADPEN 6BJW \(link is external\)](#)(W) (offence committed between May 2012 and April 2015) – Administrative Penalty Notice
- [ADPEN 106C \(A\) \(link is external\)](#) – (offence committed after April 2015) – Administrative Penalty Notice - Attempt only case
- [AP106D \(link is external\)](#) – (offence committed after April 2015) – Administrative Penalty Notice – Penalty includes a Housing Benefit overpayment element
- [ADPEN 6C \(link is external\)](#)/ [ADPEN 6CW \(link is external\)](#)/ [ADPEN 6CJW\(W\) \(link is external\)](#) (offence committed after April 2015) – Administrative Penalty Notice
- [ADPEN 6D \(link is external\)](#) / [ADPEN 6DW \(link is external\)](#) – Administrative Penalty Notice - Delegation of Function

- [ADPEN 6E\(A\) \(link is external\)](#)/[ADPEN 6E\(A\)W \(link is external\)](#) and [ADPEN6E\(B\) \(link is external\)](#)/[ADPEN6E\(B\)W \(link is external\)](#) – Administrative Penalty Notice – Employer.

5. Exceptionally a visit to their home or business premises can be made.

6. The purpose of the Ad-Pen interview is to:

- provide advice and information about Ad-Pens and
- offer the person the chance of agreeing to pay an Ad-Pen

7. Issuing the forms also gives the person the opportunity to seek independent advice and advises them that they may have a representative present during the interview.

8. The production and issue of the forms and any interview or visit arrangements must be recorded on FRAIMS. See [FRAIMS user instructions - Scheduling the interview. \(link is external\)](#)

Onus to attend interview

9. The onus to attend the office for the interview lies with the intended interviewee. However, in certain circumstances it may be appropriate to visit the person if they are unable or fail to attend an Ad-Pen interview. It is difficult to be prescriptive, as each case must be looked at on its own merits.

10. Factors to consider include:

- the person is in full-time work and is unable or unwilling to take time off to attend the interview
- the person has had an accident and cannot travel
- the case is unlikely to be accepted by the prosecuting authority due to the low level nature of the fraud
- the person is required at home to look after another person.

11. If a visit is considered appropriate, an appointment to visit the person's home must be made. Contact with the person can be made by telephone or by use of the [ADPEN 7 \(link is external\)](#) / [ADPEN 7W \(link is external\)](#).

12. Details of the arranged visit must be recorded on FRAIMS, see [FRAIMS Guidance - Scheduling a visit \(link is external\)](#). Un-notified visits are not appropriate.

Failure to attend interview

13. Issue the [ADPEN 7 \(link is external\)](#) / [ADPEN 7W \(link is external\)](#) or [ADPEN 8 \(link is external\)](#) / [ADPEN 8W \(link is external\)](#) if the intended interviewee does not:

- attend or is not at home for the interview and
- contact the office within five working days to offer an explanation and arrange for a further appointment

14. Record the details of the failure to attend/contact the office on FRAIMS, see [FRAIMS Guidance – Failure to attend the Administrative Penalty interview.](#)

15. Re-schedule the interview and record the details on FRAIMS, see [FRAIMS Guidance – Arrange the interview.](#)

16. If the intended interviewee fails to attend, or is not at home for the second interview, and does not contact the office within five working days to offer an explanation and arrange for another appointment, consider the case for prosecution.

17. If the person contacts the office to request an appointment for an Ad-Pen interview **before** the prosecution file is submitted to the relevant prosecuting authority, make a new appointment either by using [ADPEN 7 \(link is external\)](#) / [ADPEN 7W \(link is external\)](#), modified to suit the circumstances, or by telephone. Record the details for arranging and interview on FRAIMS.

18. If the appointment is made by telephone, advise the person their case will be passed to the relevant prosecuting authorities if they fail to keep the appointment.

19. If the person:

- attends the interview, continue with the Ad-Pen action

- fails to attend the interview, prepare the file for submission to the relevant prosecuting authority
20. If the person fails to attend the interview or the interview is no longer required, update FRAIMS with the activity and the decision made, see [FRAIMS Guidance – Failure to attend the Administrative Penalty interview](#).

Change of address before the interview

21. If before the Ad-Pen interview can be conducted, the claimant moves to an address outside the area, transfer the FRAIMS case and the evidence file to the team in the area to which the person has moved. Ask the other investigating team to continue Ad-Pen action, see [FRAIMS Guidance – Request for transfer of a case](#).

Preparation for the Administrative Penalty interview

1. When the person is interviewed to discuss the offer of an Administrative Penalty (Ad-Pen), the nature of the interview should be formal and reflect the seriousness of the situation.
2. The officer conducting the interview should have to hand all the evidence that was used during the Interview Under Caution (IUC), including the transcript of interview or typed summary. This is to ensure that the officer conducting the interview has familiarity with the case and can produce the documents, if necessary, during the Ad-Pen interview.
3. The officer conducting the interview should also have a clear idea of how the interview is to be conducted and be familiar with all the points that need to be covered.

Interpreters

4. If the officer conducting the interview is aware that the interviewee has difficulty in understanding English, they should ensure that an interpreter is present during the Ad-Pen interview. The interpreter may be a:

- relative
 - friend
 - member of Department for Work and Pensions (DWP)/Local Authority (LA) staff with a command of the person's language with the interviewee's agreement
5. No interpreter's fees are payable in these circumstances.

Individuals with complex needs or requiring additional support

6. If the person being interviewed is identified as an [individual with complex needs and/or requiring additional support](#) ensure that an appropriate adult is present during the Ad-Pen interview. This person may be a relative, friend or person responsible for their welfare such as a social worker. This should be the same person who accompanied them at the IUC as they already have knowledge of the circumstances connected with the alleged offence.

7. If an individual requiring additional support attends the interview without the presence of an appropriate adult take the following action:

- ask whether they would like the interview re-arranging to an alternative date to enable the attendance of the appropriate adult
- if the person says that they do not want the interview re-arranging or to be accompanied by an appropriate adult, the interview should proceed. The fact that the person declined the presence of an appropriate adult must be recorded on FRAIMS

See [FRAIMS Guidance – Recording the acceptance of the Administrative Penalty](#).

Conducting the Administrative Penalty interview

General

1. The interview is to provide information, answer questions and offer the person the option of agreeing to pay an Administrative Penalty (Ad-Pen). It is **not** an Interview Under Caution (IUC) and can be conducted by a single officer taking account of any appropriate health and

safety issues, for example, the claimant is noted as displaying Unacceptable Claimant Behaviour.

2. The interviewing officer should explain the purpose of the interview. The person should be told that each point is explained in more detail during the interview.

3. The reason for the interview is to:

- offer the person the choice of agreeing to pay an Ad-Pen
- explain that the offer is being made on behalf of the Secretary of State or Local Authority (LA)
- explain to the person that, in the light of the evidence available it is believed that there are grounds for instituting criminal proceedings for an offence
- make sure the person understands that Department for Work and Pensions (DWP) and/or LA believes it has sufficient evidence to submit the case to the Crown Prosecution Service (CPS)/Procurator Fiscal for a prosecution decision
- emphasise to the person the seriousness of the offence
- advise the person that in the circumstances of their case, it has been decided to offer them the alternative of agreeing to pay an Ad-Pen instead of recommending prosecution action
- fully explain what an Ad-Pen is
- remind the person they are expected to make a decision on whether to agree to pay an Ad-Pen by the end of the interview
- obtain the person's written agreement to pay an Ad-Pen and explain that no proceedings will be instituted against them for the criminal offence relating to the overpayment

4. The interviewing officer must be prepared to spend as long as necessary to ensure that each person fully understands:

- the situation
- the options open to them and
- what these options mean for them
- in all cases ensure the person knows exactly what:
 - an Ad-Pen is and
 - what signing an agreement to pay an Ad-Pen means

5. The person must never be coerced into agreeing to pay an Ad-Pen. Remember, they are not obliged to admit guilt to any offence.

6. Under no circumstances must the person be made to feel intimidated or threatened during the course of the interview. It is also essential to avoid giving the person the impression that an Ad-Pen is being imposed. The Ad-Pen scheme is an 'opt-in' scheme.

7. The person **must** make the decision to agree or decline to pay an Ad-Pen. If a person states, during the interview, that they are to appeal against the overpayment decision, suspended the interview immediately.

8. If after a reasonable period, the person has not appealed against the overpayment decision, another offer of an Ad-pen interview should be made.

9. For more information on how the interview should be conducted, see [Aide-memoire for conducting Administrative Penalty interviews](#).

10. The officer's summary of the Ad-Pen interview must be recorded in the appropriate Case Activity Description field on FRAIMS, additional information should also be attached where applicable.

11. Update the interview activity with the outcome on FRAIMS, see [FRAIMS Guidance - After the Administrative Penalty interview](#).

Explanation of an Administrative Penalty

12. The Ad-Pen notice accompanies the letter inviting a person to attend the Ad-Pen interview, the Ad-Pen notice sets out the basic provision of section 115A/B of the Social Security Administration Act 1992. In Ad-Pen interviews, if the Ad-Pen is the result of an offence that wholly occurred on or after 1 April 2010, the person must be informed that if they

accept the Ad-Pen any benefit they receive now or in the future may be the subject of a loss or reduction of benefits, providing the penalty has still been accepted after the cooling off period.

This is referred to as a One Strike fraud penalty, for further information see [Loss of Benefit - One Strike Process. \(link is external\)](#)

Action on cases prior to 8th May 2012

13. The [ADPEN 6A \(link is external\)](#) / [ADPEN 6AW \(link is external\)](#) / [ADPEN 6AJW\(W\) \(link is external\)](#) / [ADPEN 6AJW \(link is external\)](#) (offence committed before May 2012), [ADPEN 6D \(link is external\)](#) / [ADPEN 6DW \(link is external\)](#) and the [ADPEN 6E\(A\) \(link is external\)](#) / [ADPEN 6E\(A\)W \(link is external\)](#) / [ADPEN 6E\(B\) \(link is external\)](#) / [ADPEN 6E\(B\)W \(link is external\)](#) that accompanies the Ad-Pen notice provides additional information. However, to ensure the person fully understands the situation the interviewing officer should also provide a comprehensive verbal explanation.

Action on cases on or after 8th May 2012

14. The [ADPEN 6B \(link is external\)](#)/ [ADPEN 6BW \(link is external\)](#)/ [ADPEN 6BJW\(W\) \(link is external\)](#) (offence committed between May 2012 and April 2015), [ADPEN 6C \(link is external\)](#)/ [ADPEN 6CW \(link is external\)](#)/ [ADPEN 6CJW\(W\) \(link is external\)](#) (offence committed after April 2015) / [AP106D \(link is external\)](#) / [AP106E \(link is external\)](#) / [ADPEN106C\(A\) \(link is external\)](#) that accompanies the Ad-Pen notice provides additional information. However, to ensure the person fully understands the situation the interviewing officer should also provide a comprehensive verbal explanation.

15. Legislation lays down the circumstances in which an Ad-Pen can be offered and how the Ad-Pen is calculated. The following points may be useful when providing the explanation:

- Ad-Pen:
 - is contained in Section 115A of the Social Security Administration Act 1992
 - was introduced under the Social Security Administration (Fraud) Act 1997 and
 - came into force on 18 December 1997
 - was amended by the Welfare Reform Act 2012, with effect from 8th May 2012
 - The Social Security (Penalty as an alternative to prosecution) (Maximum Amount) Order raised the maximum amount of the Ad-Pen to £5,000 for overpayments which began wholly on or after 1 April 2015
- Employer Ad-Pen:
 - is contained in Section 115B of the Social Security Administration Act 1992
 - was introduced under the Social Security Fraud Act 2001 and
 - came into force on 30 April 2002
- Delegation of Function Ad-Pen:
 - is contained in Section 115A (7A) and (7B) of the Social Security Administration Act 1992
 - was introduced under the Social Security Fraud Act 2001 and
 - came into force on 30 April 2002.

Ad-Pen cases

16. At the start of the interview explain that:

For cases prior to 8th May 2012

- the legislation states that an Ad-Pen is calculated at 30% of the recoverable overpayment, rounded down to the nearest whole penny
- there is no discretion to vary this percentage.

For cases on or after 8th May 2012

The Ad-Pen is set at 50% of the recoverable overpayment, rounded down to the nearest whole penny, up to a maximum Ad-Pen of:

- £2,000 for offence which began before 1 April 2015
- £5,000 for offences which began wholly on or after 1 April 2015.

- In cases of attempted fraud where there is no overpayment, explain to the person that the amount of the Ad-Pen is £350.
17. Only in exceptional circumstances should an Ad-Pen be offered for an overpayment amount which exceeds the DWP prosecution limit.
 18. There is no discretion to vary the amount of the Ad-Pen offered.
 19. Remind the person of the amount of benefit overpaid to them and tell them how much the Ad-Pen would be if they agreed to pay it.
 20. If the person wants to know more about how the overpayment has been calculated, advise them to discuss this matter with the office that deals with their benefit claim.
 21. Interviewing officers are unlikely to have sufficient information available to answer questions about overpayment calculations accurately. This does not affect the ability to make a decision on the Ad-Pen.
 22. If the person is receiving benefit, remind them the overpayment and the Ad-pen will be recovered from their benefit payments.
 23. If the person receives benefit, tell them that if they cease to claim benefit, they will still have to repay the overpayment and the Ad-Pen. Explain that this can be done by the person making voluntary payments or, if necessary, DWP or LA will take legal action through the civil courts to recover the debt. This could involve obtaining an Attachment of Earnings Order (England and Wales) or an Arrestment of Wages (Scotland).
 24. If the person no longer receives benefit, tell them how the overpayment and Ad-Pen will be recovered, as above.
 25. If the person wants to know more about the weekly overpayment deductions, advise them to discuss this matter with the office that pays their benefit. Rates of recovery may vary in individual cases and precise information will not normally be available to interviewing officers.
 26. The immunity given by the DWP or LA does not prejudice any action that may be taken against an individual by the other benefit-paying organisation in respect of any overpayment incurred by that individual.
 27. The other organisation may wish to offer the person the choice of agreeing to pay a separate Ad-Pen in respect of any overpaid Housing Benefit (HB) or Council Tax Benefit (CTB) (prior to 1 April 2013) or it may consider taking criminal proceedings.
 28. Remind the person that although there is a 28 calendar day (for offences prior to 9th May 2012) or a 14 calendar day (for offences committed on or after 8th May 2012) cooling off period for Ad-Pen purposes, recovery of the overpayment:
 - will continue if deductions have already started
 - may commence during the 28 days, if deductions have not already started.
 29. Tell the person the agreement relates only to the overpayment being discussed. If the person agrees to pay an Ad-Pen but the overpayment is subsequently revised, the agreement will be null and void.
 30. The person must understand that, should this happen, DWP or LA may offer the person the choice of agreeing to pay a new Ad-Pen based on the revised amount of overpayment. If, however, evidence of a more serious fraud comes to light, criminal proceedings may be taken against the person.
 31. Advise the person that if the overpayment is revised, any amount of the Ad-Pen that has been paid at that stage will be repaid to them unless a new agreement is made. This will only apply if, exceptionally, the person has paid some or all of the Ad-Pen as a lump sum.
 32. If a new agreement is made in the specified manner, any amount of Ad-Pen already recovered is treated as having been paid for the purposes of the new agreement and there is

no refund of any repaid overpayment or Ad-Pen if there is still part of the Ad-Pen or overpayment outstanding.

33. An Ad-Pen is a financial penalty which can be offered to a person, who, DWP/LA believes, has caused benefit to be overpaid to them by a deliberate act or omission on their part and there are grounds for instituting proceedings against them for a criminal offence relating to the overpayment.

34. Tell the person that because DWP or LA believes they have committed a criminal offence for which they could be prosecuted, the conditions for offering them the choice of agreeing to pay an Ad-Pen have been satisfied.

35. Advise the person they are not obliged to agree to pay an Ad-Pen, but if they choose not to, DWP or LA will pass their papers to the prosecuting authorities to consider taking criminal proceedings against them.

36. The person must be shown the [ADPEN 9CLBS \(HB-CTB\)](#) / [ADPEN 9C \(link is external\)](#) / [ADPEN 9CW \(link is external\)](#) / [ADPEN 9CJW \(link is external\)](#) or [ADPEN 9D \(link is external\)](#) / [ADPEN 9DW \(link is external\)](#) / [ADPEN 9DJW \(link is external\)](#) for offences committed prior to 8th May 2012.

For offences committed on or after 8th May 2012, the person must be shown , [ADPEN 9CLBS \(link is external\)](#)/ [ADPEN 9CLBSW \(link is external\)](#) / [ADPEN 9CLBS \(HB-CTB\) \(link is external\)](#), [ADPEN 109CA \(link is external\)](#)/ [ADPEN 109CAW \(link is external\)](#), [ADPEN 109DA \(link is external\)](#)/ [ADPEN 109DW \(W\) \(link is external\)](#) and [ADPEN 109D \(link is external\)](#)/ [ADPEN 109D \(W\) \(link is external\)](#)

37. Advise the person that if they agree to pay an Ad-Pen and sign the Ad-Pen agreement, no proceedings will be instigated by the DWP or LA for any offence in respect of that particular overpayment/offence.

38. Explain that this does not give them immunity in relation to any other offences, which they may have committed in relation to other existing or future overpayments or offence.

39. When the total Ad-Pen is in respect of several overpayments for offences committed prior to 8th May 2012, an Ad-Pen will have been calculated for each separate overpayment. In these cases the Ad-Pen calculations and overpayments must be added together and the total amounts shown on the [ADPEN 9C \(link is external\)](#) / [ADPEN 9CW \(link is external\)](#) / [ADPEN 9CJW \(link is external\)](#) or [ADPEN 9D \(link is external\)](#) / [ADPEN 9DW \(link is external\)](#) / [ADPEN 9DJW \(link is external\)](#).

For offences committed on or after 8th May 2012 the total overpayments should be shown on the [ADPEN 9C \(link is external\)](#)/ [ADPEN 9C W \(link is external\)](#) / [ADPEN 9CJW \(link is external\)](#) or [AP109\(D\). \(link is external\)](#)

40. These are completed in order that the customer only has to sign one Ad-Pen agreement.

41. Explain that by agreeing to pay an Ad-Pen, the person does not incur a criminal record and the fact they have agreed to pay an Ad-Pen cannot be mentioned in court should they ever, in future, be prosecuted for any other offence.

42. Advise the person that if they wish to agree to pay an Ad-Pen and sign the Ad-Pen agreement form, they will have 28 calendar days (if the offence started prior to 8th May 2012) or 14 calendar days (if offence started on or after 8th May 2012) from and including the date of signing in which to change their mind and notify the Secretary of State or LA of their withdrawal from that agreement. This notification must be in the specified manner, see Specified Manner of Agreement.

43. Inform the person that if they do withdraw from the agreement, DWP or LA will pass their case to the prosecuting authorities to consider criminal proceedings.

44. Remind the person they may like to consider seeking independent advice, for example, from a solicitor, Citizen's Advice Bureau or Welfare Rights organisation during the 28 calendar days (if the offence started prior to 8th May 2012) or 14 days (if offences started on or after 8th May 2012) cooling off period.

Employer Ad-Pen cases

45. Advise the employer that the decision to recover an Ad-Pen, if the employer agrees to pay one, is a Secretary of State or LA decision against which there is no right of appeal. The amount of the Ad-Pen is set by statute.

46. Tell the employer how the Ad-Pen will be recovered. Repayment can be done by the employer making voluntary payments or, if necessary the Department or LA will take legal action through the civil courts to recover the debt. This could involve obtaining an Attachment of Earnings Order (England and Wales) or an Arrestment of Wages (Scotland).

47. Advise the employer that the agreement only relates to the offences being discussed. If, however, evidence of a more serious fraud comes to light, criminal proceedings may be taken against the employer.

48. An Ad-Pen is a financial penalty that can be offered to a person, who, DWP or LA believes, has committed an offence and there are grounds for instituting proceedings against them for a criminal offence relating to the overpayment.

49. An Ad-Pen can also be offered to an employer where there has been an attempted fraud on cases where the offence was prior to 8th May 2012, which has been discovered before any overpayment of benefit has been made and there are grounds for instituting proceedings against them for a criminal offence in respect of the attempted fraud.

50. Tell the employer that because DWP or LA believes they have committed a criminal offence for which they could be prosecuted, the conditions for offering them the choice of agreeing to pay an Ad-Pen have been satisfied.

51. Advise the employer they are not obliged to agree to pay an Ad-Pen, but if they choose not to, DWP or LA will pass their papers to the prosecuting authorities to consider taking criminal proceedings against them.

52. The employer should be shown the [ADPEN 9E \(link is external\)](#) / [ADPEN 9EW \(link is external\)](#). Advise the person that if they agree to pay an Ad-Pen and sign the Ad-Pen agreement, no proceedings will be instigated by the DWP or LA for any offence in respect of that particular overpayment or offence.

53. Explain that this does not give them immunity in relation to any other offences, which they may have committed in relation to other existing or future offences.

54. Explain that by agreeing to pay an Ad-Pen, the employer does not incur a criminal record and the fact they have agreed to pay an Ad-Pen cannot be mentioned in court should the individual ever, in the future, be prosecuted for any other offence.

55. Advise the employer that if they wish to agree to pay an Ad-Pen and sign the Ad-Pen agreement form, they have 28 calendar days (if the offence started prior to 8th May 2012) or 14 Calendar days (if offence started on or after 8th May 2012) from, and including, the date of signing in which to change their mind and notify the Secretary of State or LA of their withdrawal from that agreement.

56. This notification must be in the specified manner. Inform the person that if they do withdraw from the agreement, DWP or LA will pass their case to the relevant prosecuting authority to consider criminal proceedings.

57. Remind the person they may like to consider seeking independent advice, for example, from a solicitor, a Citizen's Advice Bureau or Welfare Rights organisation during the 28 or 14 day cooling off period.

Making sure the person/employer understands

58. In Ad-Pen interviews, if the Ad-Pen is the result of an offence that wholly occurred on or after 1 April 2010, the person must be informed that if they accept the Ad-Pen any benefit they receive now or in the future may be the subject of a loss or reduction of benefits, providing the penalty has still been accepted after the cooling off period.

59. This is referred to as a One Strike fraud penalty, for further information see Loss of Benefit - [One Strike Process \(link is external\)](#).

60. It is important to ensure the person understands everything they are told during the Ad-Pen interview.

61. If necessary, ask the person questions to establish that they have understood all the relevant information about Ad-Pens. The interviewing officer should ask the interview if there is anything they want to ask or if there is anything else they want to know.

Offering an Administrative Penalty

62. When asking the person if they wish to agree to pay an Ad-Pen, do not:

- put any pressure on the person to agree or decline to pay an Ad-Pen
- offer or give advice about whether the person should agree or decline to pay an Ad-Pen.

63. If the interviewing officer is asked for advice, they should inform the person that they are not permitted to offer advice or options about the matter.

Person wishes to discuss the offence

64. Ad-Pens are offered to persons after the conclusion of an investigation and only when there are grounds for instituting proceedings for a criminal offence. This means that persons attending an Ad-Pen interview will normally have had the opportunity to provide information about the alleged offence during an IUC.

65. Individuals cannot alter the contents of the record of the IUC during the Ad-Pen interview. Neither the investigation nor the alleged offence are the subject of the Ad-Pen interview and should **not** be discussed during the interview. As the person is not under caution, any further information about the alleged fraud that the person may want to provide will be irrelevant for both prosecution and Ad-Pen purposes. Should this occur suspend the Ad-Pen interview immediately.

66. Should the person wish to discuss another possible benefit offence they may have committed but which was not previously known to the interviewing officer, suspend the Ad-Pen interview immediately. The interviewing officer must then consider whether to:

- refer to another officer to conduct an IUC in respect of the new offence or
- postpone the Ad-pen interview until the matter has been investigated.

67. Details of why the interview has been suspended must be recorded in the appropriate Case Activity Description field on FRAIMS, see [FRAIMS Guidance – After the Administrative Penalty interview](#).

68. A Fraud Referral Form (FRF) must be completed with details of the new offence(s). When the new incident is matched to the existing case, consider who the new incident or case is to be referred to.

Person agrees to pay the Administrative Penalty

For offences that partly or wholly occurred prior to 1st April 2010

1. If the person agrees to pay an Administrative Penalty (Ad-Pen), complete two copies of the [ADPEN 9C \(link is external\)](#) / [ADPEN 9CW \(link is external\)](#) / [ADPEN 9CJW \(link is external\)](#), [ADPEN 9D \(link is external\)](#) / [ADPEN 9DW \(link is external\)](#) / [ADPEN 9DJW \(link is external\)](#), and the [ADPEN 9E \(link is external\)](#) / [ADPEN 9EW \(link is external\)](#). Each copy of the relevant form should be signed by the person agreeing to pay the Ad-Pen and witnessed by the interviewing officer. One signed ADPEN9 and one copy is acceptable.

For offences that occurred wholly on or after 1st April 2010 up until 7th May 2012

2. For Ad-Pens in respect of offences that wholly occurred on or after 1 April 2010, complete two copies of the [ADPEN 9C \(LBS\) \(link is external\)](#) / [ADPEN 9C LBSW \(link is external\)](#), [ADPEN.9D \(LBS\)](#) and [ADPEN 9C LBS \(HB-CTB\) \(link is external\)](#) / [ADPEN 9C LBS \(HB-](#)

CTB) W ([link is external](#)), as appropriate, which include an understanding that the acceptance of an Ad-Pen could result in loss of benefit.

3. The following action must then be taken for all Ad-Pens:

- give a signed copy of the appropriate ADPEN form and [ADPEN 11 \(link is external\)](#) / [ADPEN 11W \(link is external\)](#) to the person to retain
- for offences that occurred wholly on or after 1 April 2010 give the person a copy of the [LBS1\(AC\)](#), this explains that if they accept the Ad-Pen, any social security benefit they receive may be the subject of a Loss of Benefit fraud penalty
- scan the second copy of the appropriate ADPEN9 and store in DRS, noting FRAIMs. This second copy is then available for the evidence file and other functions such as Debt Management as required
- the investigator must complete part 8.3 of the [LAIEF](#) (Local Authority Information Exchange Form) and Ad-Pen agreement attached to email, sending it to the Local Authority (LA) Single Point of Contact (SPOC)
- consider [Loss of Benefit \(LOB\)](#) action.

For offences that occurred wholly on or after 8th May 2012

4. For Ad-Pens in respect of offences that wholly occurred on or after 8 May 2012, complete two copies of either [ADPEN 9C LBS \(HB-CTB\) \(link is external\)](#) / [ADPEN 9C LBS \(HB-CTB\)W \(link is external\)](#), [ADPEN 9CLBS \(link is external\)](#)/ [ADPEN 9CLBSW \(link is external\)](#), [ADPEN 109CA \(link is external\)](#)/ [ADPEN 109CAW \(link is external\)](#), [ADPEN109DA \(link is external\)](#) / [ADPEN 109 DAW \(link is external\)](#)and [ADPEN109D \(link is external\)](#) / [ADPEN109DW \(link is external\)](#) which include an understanding that the acceptance could result in loss of benefit.

5. Take the following action:

- once both copies have been signed give a copy of the appropriate ADPEN form to the person to retain
- give the person a copy of the Loss of Benefit fraud penalty letter [LBS1 \(AC\) \(link is external\)](#) / [LBS1 \(AC\) W \(link is external\)](#), this explains that if they accept the Ad-Pen, any social security benefit they receive may be the subject of a Loss of Benefit fraud penalty
- scan the second copy of the appropriate ADPEN form (after the 14 day (or 28 days if prior to 8 May 2012) cooling off period has elapsed) and store in DRS, noting FRAIMs. This second copy is then available for the evidence file and other functions such as Debt Management as required
- the investigator must complete part 8.3 of the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form) and Ad-Pen agreement attached to the email and send it to the Local Authority (LA) Single Point of Contact (SPOC)
- consider [Loss of Benefit \(link is external\)](#)(LOB) action.

Additional time allowed to consider Administrative Penalty Offer advising the person of the conditions

6. If the individual requests additional time to think about the offer and if the request is reasonable, extra time can be allowed. FRAIMs must be updated with the details that additional time has been given, see [FRAIMs Guidance - Extra time requested to consider the Administrative Penalty offer](#).

7. In deciding whether a request is reasonable, the interviewing officer should make a decision based on the circumstances of the individual case.

8. If the person's request for additional time to consider the Ad-Pen offer is allowed, inform the individual that they must contact the interviewing officer or the office of the interviewing officer within five working days from and including the first working day after the Ad-Pen interview.

9. The person may do this by calling at the office, writing or telephoning to inform DWP or LA that they have reached their decision and what that decision is.

10. Advise the person that if they decide to agree to pay an Ad-Pen, they must attend the office to sign an Ad-Pen agreement.

11. Advise the person that if they fail to:

- contact the office within five working days
 - attend any appointment made for them to sign the Ad-Pen agreement for
12. Their case will be treated as a decision to decline to agree to pay an Ad-Pen and will be passed to the prosecuting authorities for consideration of criminal proceedings without further notification.

Person declines the Administrative Penalty at the interview

If the person declines to agree to pay an Administrative Penalty (Ad-Pen), ask them to complete a non-acceptance statement [ADPEN 12 \(link is external\)](#) / [ADPEN 12W \(link is external\)](#). If the person refuses to sign the document, do not pressurise them. Record the details in the appropriate Case Activity Description field on FRAIMS and complete the contact screen.

Record that the Ad-Pen acceptance was rejected or withdrawn on FRAIMS, see [FRAIMS Guidance – Administrative Penalty rejected or acceptance withdrawn](#).

In either case, refer the case to the TL to approve for prosecution and submission to the relevant prosecuting authority to consider criminal proceedings.

04 Action after Administrative Penalty interview

Contact within five working days

Person calls at office

1. If the person calls in to the office within the 5 working day period, if possible, the interviewing officer should see the person to witness their signature on the Administration Penalty (Ad-Pen) agreement. If the interviewing officer is not available, another officer should witness the person's agreement to pay on the Ad-Pen agreement.
2. Give the person a copy of [ADPEN 11 \(link is external\)](#) / [ADPEN 11W \(link is external\)](#). Continue action as detailed in [Person agrees to pay an Ad-Pen](#).
3. If the person does not want to agree to pay the Ad-Pen, ask them to complete the [ADPEN 12 \(link is external\)](#) / [ADPEN 12W \(link is external\)](#). Prepare the file for submission to the relevant prosecuting authority to consider criminal proceedings.

Person telephones or writes to offer to agree to pay

4. If the person contacts the office by telephone or letter within the 5 working day period, stating that they wish to agree to pay an Ad-Pen, use the [ADPEN10 \(link is external\)](#)/[ADPEN10W \(link is external\)](#) to make an appointment for them to complete the Ad-Pen agreement form.
5. Alternatively, make an appointment by telephone and inform the person that if they fail to keep the appointment, their case will be passed to the appropriate prosecuting authority to consider taking criminal proceedings against them.
6. Details of arranging the interview must be recorded on Fraud Referral and Intervention Management System (FRAIMS) and the details of the telephone conversation in the appropriate Case Activity Description on FRAIMS and complete the contact screen, see [FRAIMS Guidance – Arrange the interview](#).
7. If the person keeps the appointment and signs the Ad-Pen agreement, continue action as detailed in [Person agrees to pay an Ad-Pen](#)
8. If the person fails to keep the appointment and does not contact the office before or on the day of the appointment to make new arrangements the details must be recorded on FRAIMS, see [FRAIMS Guidance - Failure to attend the Administrative Penalty interview](#).
9. Prepare the file for submission to the prosecuting authority to consider criminal proceedings.

10. If the person fails to keep the latest appointment made, continue the submission to the prosecuting authority.

11. If the person subsequently contacts the office, contact the relevant prosecuting authority. In some cases, the prosecuting authority may decide to return the file so that the person may agree to pay an Ad-Pen. If the prosecuting authority decide to continue with criminal proceedings, advise the person that the:

- case has already been passed to the prosecuting authorities and
- Secretary of State's or Local Authorities (LAs) offer of an Ad-Pen no longer applies.

12. Keep a record on FRAIMS of all contacts made by the person, all appointments made and whether the person kept them or not.

Person telephones or writes to decline to pay

13. If the person telephones or writes to the office within five working days to say they do not wish to agree to pay an Ad-Pen, send them a the non-acceptance form [ADPEN 12 \(link is external\)](#) / [ADPEN 12W \(link is external\)](#) with the [ADPEN13 \(link is external\)](#)/[ADPEN13W \(link is external\)](#), and a pre-paid envelope, record the details on FRAIMS.

14. If the person does not return the form within 5 working days, send a reminder. If they fail to respond within ten working days, do not pursue the matter any further. Record all actions on FRAIMS and submit it to the prosecuting authority to consider criminal proceedings, see [FRAIMS Guidance – Administrative Penalty rejected or acceptance withdrawn](#).

Person fails to contact within time limit

15. If a person who has been granted additional time in which to consider the Ad-Pen offer, fails to contact Department for Work and Pensions (DWP)/LA within five working days, prepare the file for submission to the prosecuting authority to consider criminal proceedings.

16. If the person contacts DWP or LA or their office **before** the case is submitted to the prosecuting authority and states that they wish to agree to pay an Ad-Pen, see [Change of decision: Agrees to pay an Administrative Penalty](#).

Person agrees to pay an Administrative Penalty

17. If the person/employer agrees to pay an Ad-Pen, review the case 14 calendar days from and including the day the agreement was signed.

18. If, after 14 days (or 28 days if the offence was prior to 8th May 2012), the person has not withdrawn their agreement to pay an Ad-Pen, record the total amount of the Ad-Pen in the 'Penalties' field on FRAIMS.

19. Where appropriate, arrange to issue the [LBS1AC \(link is external\)](#)/[LBS1ACW \(link is external\)](#) or [LOB\(AC\) \(link is external\)](#)/[LOB\(AC\)W \(link is external\)](#) notification to the claimant. For further information see:

- [03 Offences wholly committed on or after 1 April 2010 \(link is external\)](#)
- [02 Offences wholly committed on or after 1 April 2013 \(link is external\)](#).

20. When the total overpayment is the result of more than one overpayment, as the offence covers different period(s)/benefit(s) payments must be aggregated before any Ad-Pen is calculated.

For offences occurring prior to 8th May 2012

21. Calculate the Ad-pen by aggregating the whole overpayment and then taking 30% of the total overpayment, and record details in the Contact Penalties field in FRAIMS.

22. Where the function to offer an Ad-Pen has been delegated, and after 28 days the person has not withdrawn their agreement to pay an Ad-Pen, forward the AG2 to the other organisation to record the outcome on their database.

For offences occurring on or after 8th May 2012

23. Where the total aggregated overpayment is over £700, each separate overpayment and Ad-Pen attributable to it must be recorded in the Contact Penalties field on FRAIMS.

24. Where the total aggregated overpayment is under £700, the £350 Ad-Pen must be recorded against the overpayment of the main benefit.

25. Where there is no overpayment of benefit (attempt case), only record the Ad-Pen of £350 in the Contact Penalties field.

25. Where the function to offer an Ad-Pen has been delegated, and after 14 days the person has not withdrawn their agreement to pay an Ad-Pen, forward the AG2 to the other organisation to record the outcome on their database.

26. For Single Fraud Investigations where the claimant accepts the Ad-Pen:

- [scan \(link is external\)](#) the signed Ad-Pen acceptance form
 - complete the [AG2 \(link is external\)](#)
 - complete the Local Authority Information Exchange Form (LAIEF) by embedding the signed Ad-Pen acceptance and AG2 at part 8.3
 - email the LAIEF to the Local Authority (LA) Single Point of Contact (SPOC).
27. Apply Loss of Benefit action, see [Loss Of Benefit Provisions \(link is external\)](#).

Recording the acceptance of the Administrative Penalty on Fraud Referral and Intervention Management System

When the 14 day (28 day for offences committed prior to 8th May 2012) cooling off period has expired and the claimant has not withdrawn their agreement to accept the Administrative Penalty (Ad-Pen), record the amount of **each** overpayment and Ad-Pen in the 'Penalties' field on FRAIMS. See [FRAIMS guidance – Recording the acceptance of the Administrative Penalty](#).

2. If the whole of the offence occurred on or after 1 April 2010, ensure that One Strike action is taken. For more information see [Loss of Benefit Provisions – One Strike Process](#).

3. Do not complete the Outcome or Date of Outcome at this stage, this will be completed by the Team Leader, Higher Investigations Leader or nominated officer when they approve the closure of the case.

4. In England and Wales, if the Ad-Pen has been offered following the return of a prosecution file and the Requisition has been obtained, the Outcome field will display 'Prosecution' and the Date of Outcome field will display the date the Requisition was issued.

5. The investigator must check at what stage the file was returned and advise the Team Leader, Higher Investigations Leader or nominated officer as the actions to be taken to update the case Outcome field are different depending on whether the decision to offer the Ad-Pen is made pre or post the date the Requisition was obtained. For further information see [Caution or Administrative Penalty accepted](#).

Recording the Ad-Pen details on the Contact record

6. For details of how to record the details on the FRAIMS Contact record, see FRAIMS guidance [Recording the details on the Contact record \(link is external\)](#).
Offence occurred prior to 8th May 2012

7. The Ad-pen will be calculated using 30% of the total overpayment.

8. When recording the details of the Ad-Pen on FRAIMS it will be set against the highest amount of DWP benefit or split equally between the DWP and LA overpayment.

Example:

- Employment Support Allowance (ESA) overpayment = £600
- Carer's Allowance (CA) overpayment = £400
- Total overpayment = £1000
- An Ad-pen of £300 (30% of the total overpayment of £1000) would be offered.
Recorded on FRAIMS

- Ad-pen of £300 would be recorded against ESA – the higher of the overpayment amounts.

Example

- Jobseekers Allowance (JSA) overpayment = £600
- Housing Benefit (HB) overpayment = £300
- Total overpayment = £900
- An Ad-pen of £270 (30% of the total overpayment of £900) would be offered.

Recorded on FRAIMS

- Ad-pen of £270 is split and recorded as:
 - JSA overpayment = £600 X 30% = £180
 - HB overpayment = £300 X 30% = £ 90.
- Offence occurred on or after 8th May 2012

Total overpayment less than £700

10. Where the total overpayment is less than £700 the minimum Ad-Pen of £350 will be offered.

11. When recording the details of the Ad-Pen on FRAIMS the £350 Ad-Pen will be set against the highest amount of DWP benefit or split equally between the DWP and LA overpayment.

Example:

- Employment Support Allowance (ESA) overpayment = £400
- Carer's Allowance (CA) overpayment = £250
- Total overpayment = £650.
- The minimum an Ad-Pen of £350 would be offered.

Recorded on FRAIMS

- Ad-Pen of £350 recorded against ESA – the higher of the overpayment amounts.

Example:

- Jobseekers Allowance (JSA) overpayment = £300
- Housing Benefit (HB) overpayment = £350, Total overpayment = £650.
- The minimum Ad-Pen of £350 would be offered.

Recorded on FRAIMS

- Ad-Pen of £350 split 50/50 between DWP and the LA and recorded as £175 against JSA and £175 against HB.

Total overpayment over £700

12. Where the overpayment is over £700, the Ad-Pen is calculated at 50% of the total recoverable overpayment rounded down to the nearest penny, to a maximum of:

- £2,000 for offences which begin before 1 April 2015
- £5,000 for offences occurring wholly on or after 1 April 2015.

13. When recording the Ad-Pen on FRAIMS the amount of the Ad-Pen will be allocated in proportion to the overpayment amounts.

Example:

- Employment Support Allowance (ESA) = £584
- Housing Benefit (HB) Council Tax Benefit (CTB) overpayment = £364
- Total overpayment = £948.
- An Ad-Pen of £474(50% of the total overpayment) would be offered.

Recorded on FRAIMS

- Ad-Pen of £474 split and recorded as:
- ESA overpayment = 584 x 50% = £292
- HB / CTB overpayment = £364 x 50% = £182.

14. For attempt only cases and the Ad-pen has been accepted, a non-recoverable overpayment figure of £0.00 must be recorded on FRAIMS.

15. Record the Ad-pen of £350 against the highest amount of DWP benefit or split equally between DWP and LA.

Person declines to pay Administrative Penalty

1. If a person declines to agree to pay an Administrative Penalty (Ad-Pen), or fails to attend two Ad-Pen interview appointments, consider visiting the person at home, see [Onus to Attend Interview](#).

2. If, after a visit, the person does not wish to accept an Ad-Pen, criminal proceedings should be recommended. The Department for Work and Pensions (DWP) or Local Authorities (LAs) may agree to have their offences included in the prosecution by the other organisation.

3. Prepare the case for prosecution, including, in claimant Ad-Pen cases, obtaining details of the amount of overpayment recovered to date if a person:

- fails to keep an appointment to discuss an offer of an Ad-Pen
- does not agree to pay an Ad-Pen
- does not agree to pay an Ad-Pen after being given additional time to consider the matter
- withdraws their agreement to pay an Ad-Pen within 14 calendar days or 28 calendar days if the offence occurred before 8th May 2012.

4. In claimant Ad-Pen cases, ensure any amount of the Ad-Pen that has already been recovered is repaid.

5. For Local Authority linked cases where the claimant declines the Ad-Pen:

- consider prosecution action
- complete part 8.3 of the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form)
- email the LAIEF to the LA Single Point of Contact (SPOC).

6. Record on Fraud Referral and Intervention Management System (FRAIMS) the details of this outcome, for further information see [FRAIMS Guidance – Administrative Penalty not accepted – Further action to be considered](#).

Change of decision: Agrees to pay the Administrative Penalty

1. Where the person declined to pay the Administrative Penalty (Ad-Pen), or failed to attend two Ad-Pen interviews, or if, after signing the non-acceptance form, the person contacts the office to say they have changed their mind and now wants to agree to pay an Ad-Pen action depends on whether the case has been submitted to the relevant prosecuting authority.

Case not submitted to the Prosecuting Authority

2. If the person calls at the office, the officer who conducted the Ad-Pen interview if possible, or an appropriate officer should see the person to witness the signing of two copies of the Ad-Pen agreement [ADPEN 9C \(link is external\)](#) / [ADPEN 9CW \(link is external\)](#) / [ADPEN 9CJW \(link is external\)](#), [ADPEN 9D \(link is external\)](#) / [ADPEN 9DW \(link is external\)](#) / [ADPEN 9DJW \(link is external\)](#) or [ADPEN 9E \(link is external\)](#) / [ADPEN 9EW \(link is external\)](#). Supply the person with one copy of the signed agreement and upload the other into DRS.

3. If the person contacts the office to request an appointment for an Ad-Pen interview before the prosecution file is submitted to the relevant prosecuting authority, make a new appointment using the [ADPEN 7 \(link is external\)](#) / [ADPEN 7W \(link is external\)](#) template.

4. Details of arranging the interview must be recorded on FRAIMS, for further information see [FRAIMS Guidance – Arrange the interview](#).

5. If the appointment is made by phone, advise the person their case will be passed to the relevant prosecuting authorities if they fail to keep the appointment.

6. If the person keeps their appointment and agrees to pay an Ad-Pen and signs the agreement, for further information see [Agrees to pay an Administrative Penalty](#).

7. If the person fails to keep the appointment, continue to submit the case to the relevant prosecuting authority for consideration of criminal proceedings.

Case submitted to the Prosecuting Authority

8. If the prosecution file has already been submitted to the relevant prosecuting authority, contact the Digital Case Management Unit (DCMU)/Central Prosecution Team (CPT) for advice see [FRAIMS Guidance - Obtaining Legal Advice](#).

9. In some cases, the prosecuting authority may decide to return the prosecution file so that the person may sign an Ad-Pen agreement. If the prosecuting authority decide to continue with criminal proceedings, advise the person that the:

- case has already been passed to the prosecuting authorities
- Secretary of State or Local Authority (LA) offer of an Ad-Pen no longer applies.

Submission to the Prosecuting Authority

Time-Barred Cases - Sections 112 and 112(1A)

1. If an Administrative Penalty (Ad-Pen) offer is declined by a person, it is preferable for criminal proceedings to be taken under:

- section 112 or 112(1A) - Claimant Ad-Pen cases
- section 112 or 111 - Employer Ad-Pen cases

2. However, in some cases, for example, when an appeal has taken a long time to process, criminal proceedings are time-barred for prosecution under these sections.

3. Where the Ad-Pen has been refused or where the claimant failed to attend, the case should be prepared for prosecution as soon as possible but within a maximum of 75 working days from the sufficiency of evidence date, see [Offences subject to time-bar](#).

4. Where an Ad-Pen is refused immediately, the case should be prepared for prosecution straightaway and it will be expected that the prosecuting authority will receive the case in these circumstances well within the 75 days.

5. Offences under section 111A or 111A(1A) of the Social Security Administration Act 1992 are no longer subject to a statutory time bar in Scotland, see [Section 17 of Social Security Fraud Act 2001 \(link is external\)](#).

Exceptional circumstances

6. In exceptional circumstances prosecution action may not be taken. This may occur when the prosecuting authority does not consider that the case meets the evidential and/or public interest test for prosecution.

7. If exceptional circumstances do apply, send the [ADPEN15 \(link is external\)](#) / [ADPEN15W \(link is external\)](#)/ [ADPEN15JWWelsh \(link is external\)](#) / [ADPEN15JW \(link is external\)](#) to the person. The details of withdrawing the Ad-Pen must be recorded on FRAIMS, see [FRAIMS Guidance – Prosecution not appropriate – Prosecution Authority response](#).

8. Take no further action on these cases other than, in claimant Ad-Pen cases, normal overpayment recovery.

Submitting the file to the Prosecuting Authority

9. Whilst the Ad-Pen action does not constitute evidence in Court for the proceedings, the Court will be informed that the person declined the offer of an Ad-Pen, to explain why proceedings are being taken include the following standard paragraph in the prosecution summary:

Claimant Ad-Pen (prior to 8th May 2012):

“This prosecution results from the defendant refusing to accept the offer of an Administrative Penalty in respect of his/her overpayment. In accordance with the provisions of section 115A of the Social Security Administration Act 1992 the defendant was offered the opportunity of paying an Administrative Penalty set by statute at 30% of his/her overpayment of (DWP benefit) which in this case would have been £....., and (HB/CTB) which in this case would have been £..... It was his/her refusal to accept this that has resulted in this prosecution and in that regard he/she has brought the matter upon himself/herself. In those circumstances there is an application for a contribution towards the costs of this case in the sum of £200.

This is substantially higher than the figure normally applied for but reflects the extra work that the DWP or LA has been put to as a direct result of the defendant's refusal."

Claimant Ad-Pen (on or after 8th May 2012):

"This prosecution results from the defendant refusing to accept the offer of an Administrative Penalty in respect of his/her overpayment. In accordance with the provisions of section 115A of the Social Security Administration Act 1992 the defendant was offered the opportunity of paying an Administrative Penalty set by statute at 50% of his/her overpayment of (DWP benefit) which in this case would have been £....., and (HB/CTB) which in this case would have been £..... It was his/her refusal to accept this that has resulted in this prosecution and in that regard he/she has brought the matter upon himself/herself. In those circumstances there is an application for a contribution towards the costs of this case in the sum of £200. This is substantially higher than the figure normally applied for but reflects the extra work that the DWP or LA has been put to as a direct result of the defendant's refusal."

Employer Ad-Pen:

"This prosecution results from the defendant refusing to accept the offer of an Administrative Penalty in respect of these offences. In accordance with the provisions of section 115B of the Social Security Administration Act 1992 the defendant was offered the opportunity of paying an Administrative Penalty set by statute. It was his or her refusal to accept this that has resulted in this prosecution and in that regard he or she has brought the matter upon himself or herself. In those circumstances there is an application for a contribution towards the costs of this case in the sum of £200. This is substantially higher than the figure normally applied for but reflects the extra work that the DWP or LA has been put to as a direct result of the defendant's refusal."

Appeals received after the Administrative Penalty agreement signed - Claimant Administrative Penalty only Person makes late appeal or appeal to Commissioner

1. If, after signing the Administrative Penalty (Ad-Pen) agreement, the person makes a late appeal or an appeal to the Commissioner, action will depend on whether the person withdraws their agreement to pay an Ad-Pen and whether the 14 calendar day (or 28 calendar days if offence was prior to 8th May 2012) cooling off period has expired, for further information see [FRAIMS Guidance - Notification of appeal received](#).

Appeal received during cooling off period

2. If the person appeals during the 14 calendar day (or 28 calendar days if offence was prior to 8th May 2012) cooling off period, the Officer dealing with the appeal will contact the investigator. In all cases, arrange for the relevant appeal documents to be photocopied or printed and pass the copies to the officer dealing with the appeal.

3. Do not complete the 'Contact Penalties' screen until the outcome of the appeal is received as the original agreement may require revision.

Late appeals

4. The following provides examples and the actions and forms to be issued if a late appeal is received:

Scenario	Forms and Actions
<p>Within the cooling off period.</p> <p>Agreement withdrawn</p>	<p>Complete the ADPEN2 (link is external) and ADPEN3 (link is external) indicating that prosecution proceedings are being considered and pass them to the Officer dealing with the appeal, with the appeal documents.</p>

at time of appeal	
<p>Within the cooling off period.</p> <p>Agreement not withdrawn at time of appeal</p>	<p>Complete the ADPEN2 (link is external) and ADPEN3 (link is external) indicating that an Ad-Pen has been offered, but agreement to pay is not yet confirmed and pass them to the Officer dealing with the appeal, with the appeal documents.</p>
<p>Within the cooling off period.</p> <p>Agreement withdrawn after appeal lodged.</p>	<p>Complete duplicates of the ADPEN2 (link is external) and ADPEN3 (link is external) to indicate that criminal proceedings are now being considered.</p>
<p>Appeal lodged after the cooling off period has expired.</p> <p>Agreement not withdrawn</p>	<p>Complete the ADPEN2 (link is external) and ADPEN3 (link is external) and pass them to the officer dealing with the appeal, with the fraud file for their action and await the return of the ADPEN3 (link is external).</p>

Appeals to Commissioner

5. The following provides examples and the actions and forms to be issued if an appeal to the Commissioner is made:

Scenario	Forms and Actions
<p>Within the cooling off period.</p> <p>Agreement withdrawn at time of appeal.</p>	<p>When notified by the officer dealing with the appeal that there has been an appeal to the Commissioner tell them that criminal proceedings are being considered.</p> <p>Note in the appropriate Case Activity Description field on Fraud Referral and Intervention Management System (FRAIMS) that there has been an appeal to the Commissioner and input the new due date to await the outcome of the appeal.</p>
<p>Within the cooling off period.</p> <p>Agreement not withdrawn at time of</p>	<p>No notification is required in the first instance.</p> <p>Review the case in 12 months to check the progress of the case or receipt of ADPEN5 (link is external).</p>

appeal.	
<p>Within the cooling off period.</p> <p>Agreement withdrawn after appeal lodged.</p>	<p>When notified by the officer dealing with the appeal that there has been an appeal to the Commissioner tell them that criminal proceedings are being considered.</p> <p>Record any contact on FRAIMS.</p>
<p>Appeal lodged after the cooling off period has expired.</p> <p>Agreement not withdrawn.</p>	<p>Review the case in 12 months to check the progress of the case or receipt of ADPEN5 (link is external)</p> <p>If the Tribunal's decision is upheld no further action is required.</p> <p>If the Tribunal's decision is revised, send the form ADPEN16 (link is external) to the Overpayments Section and take action as described in the following section.</p>

Overpayment revised on appeal or review

6. If the amount of the overpayment is revised following an appeal or review any agreement to pay an Ad-Pen becomes null and void.

7. This means that in cases where the offer has been delegated and where the appeal is in relation to only one of the overpayments, the agreement in relation to **all** the overpayments is null and void. Complete [ADPEN 117A \(link is external\)](#) / [ADPEN 117A W \(link is external\)](#) / [ADPEN117B \(link is external\)](#) / [ADPEN117B W \(link is external\)](#) / [ADPEN 117C \(link is external\)](#) / [ADPEN 117C W \(link is external\)](#) / [ADPEN 117D \(link is external\)](#) / [ADPEN 117D W \(link is external\)](#) to advise customer of appointment to review Ad-pen agreement.

8. If, exceptionally, the revised overpayment is higher than the original, consider whether the case is more suitable for prosecution than for Ad-Pen action.

9. If it is decided Ad-Pen action is not appropriate and criminal proceedings should be recommended, complete the [ADPEN16 \(link is external\)](#) and send it to Debt Management, see [FRAIMS Guidance - Administrative Penalty not accepted - Further action to be considered](#).

10. Submit the prosecution file to the relevant prosecuting authority.

11. If, exceptionally, the relevant prosecuting authority decides the case is not suitable for criminal proceedings:

- complete a further [ADPEN16 \(link is external\)](#) indicating that no further fraud action is intended and
 - pass it to Debt Management
12. See [FRAIMS Guidance – Prosecution not appropriate – Prosecution Authority response](#).
13. Issue the [ADPEN 18 \(link is external\)](#) / [ADPEN 18W \(link is external\)](#) / [ADPEN 18JW \(link is external\)](#) / [ADPEN 18 \(NRO\) \(link is external\)](#) / [ADPEN 18 \(NRO\)W \(link is external\)](#) to the person and record the outcome of withdrawing the Ad-Pen on FRAIMS.
14. In most cases, Ad-Pen action will still be the preferred option. In these cases, a second Ad-Pen interview will have to be conducted based on the new amount of overpayment and Ad-Pen. This means the whole procedure will need to be repeated although much less explanation will be required, for further information see [Second interview \(link is external\)](#) required.

Second interview required

1. Where following appeal or review a second Administrative Penalty (Ad-Pen) interview is required it should be conducted wherever possible by the officer(s) who conducted the original interview.

Pre-interview action for second interview

2. Ensure the person has been notified of the revised recoverable overpayment and their appeal rights. Send the [ADPEN16 \(link is external\)](#) to Debt Management and obtain a new Ad-Pen calculation using the [ADPEN1 \(link is external\)](#).

3. Send the [ADPEN6A \(link is external\)](#) / [ADPEN6AW \(link is external\)](#) / [ADPEN6AJW \(link is external\)](#) / [ADPEN6AJW\(W\) \(link is external\)](#) with the [ADPEN 7 \(link is external\)](#) / [ADPEN 7W \(link is external\)](#) to the person, inviting them to a further Ad-Pen interview and providing them with a new Ad-Pen notice.

4. The details of the second invite to discuss an Ad Pen must be recorded on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS Guidance – Arrange the interview](#).

Second interview action

5. During the second Ad-Pen interview, the interviewing officer must briefly cover the same points that were addressed during the first Ad-Pen interview. The purpose of this is to remind the person about the Ad-Pen scheme. In most cases, it will not be necessary to go into as much detail on the points to be covered.

6. However, the interviewing officer must ensure the person fully understands:

- the new amount of overpayment
- the new amount of the Ad-Pen
- the fact that the previous agreement is no longer valid and has no effect
- the fact that if they do not want to agree to pay the new Ad-Pen, their case will be considered for prosecution proceedings
- the manner in which the Ad-Pen, if the person agrees to pay one, will be recovered and
- whether any amount has been recovered in respect of the previous Ad-Pen

7. If recovery has been made, it is important to cover the rules about this set out in [Conducting the Ad-Pen interview](#).

8. Make sure the definition of an Ad-Pen and the implications this has for the person are covered in full even though this has already been done during the first interview.

9. Obtain the person's written agreement to pay an Ad-Pen or refusal to pay an Ad-Pen as appropriate.

10. Record a summary of the second Ad-Pen interview in the appropriate Case Activity Description on FRAIMS, see [FRAIMS Guidance – After the Administrative Penalty interview](#). Attach any additional information relevant to the interview if applicable.

Action after the second interview

11. Continue action as for an original agreement to pay an Ad-Pen.

05 Administrative Penalties and Local Authorities

Delegation of Functions - Not employer penalties.

1. Section 115A Subsection (7A) allows the Secretary of State or Local Authority (LA) to administer, on the others behalf, or for either to join in the carrying out of, any of the other's functions under this section.

2. Subsection (7B) does NOT allow the Secretary of State or LA:

- to decide on the others behalf to offer an Administrative Penalty (Ad-Pen)

- to delegate the decision whether the appropriate way of dealing with the offence is by way of Ad-Pen
 - to delegate the function of offering an Ad-Pen to employers.
3. It is necessary for both organisations to agree to the arrangements for administering the Ad-Pen.
4. A written agreement must be completed on behalf of the Secretary of State or LA agreeing to the action to be taken by the other. This agreement will confirm, if challenged, the authority of the organisation to offer the Ad-Pen on behalf of the other.
5. In order to obtain a written agreement Department for Work and Pensions (DWP) or LA should use the [AG1 \(link is external\)](#) and [AG2 \(link is external\)](#) for all cases involving DWP benefits and Housing Benefit (HB) or Council Tax Benefit (CTB) (prior to 1st April 2013) where the investigating organisation proposes that the way of dealing with the offence is by way of an Ad-Pen.
6. AG1 (Part 1) is used to:
- notify the outcome of an investigation
 - notify the intention to offer an Ad-Pen
 - confirm the offer of an Ad-Pen is the appropriate way of dealing with the offence
 - request agreement to offer the Ad-Pen on behalf of the other organisation for it to be offered in a joint interview
7. The AG1 (Part 1) must be completed on behalf of the Secretary of State by the Team Leader or Higher Investigations Leader.
8. On completion, e-mail the AG1 (Parts 1 and 2) to the appropriate LA for consideration. For Single Fraud Investigations, the investigator must complete part 5.1 of the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form), embed the AG1 and email it to the LA Single Point of Contact (SPOC).
9. Protection, such as encryption, is not required if sent within the Government Secure Internet (GSI) network, for example; GSI, GSX, GCSX, GSE, see [Movement of documents – Security markings](#).
10. Record the notification of Delegation of Function request to the LA on FRAIMS, see [FRAIMS Guidance – Delegation of Functions – Cautions & Administrative Penalties](#).
11. AG1 (Part 2) is used to provide a reply and:
- confirms an Ad-Pen is or is not considered to be the appropriate way of dealing with the offence
 - provides or refuses written agreement for the Ad-Pen to be offered on the organisation's behalf or for joint action
 - provides the amount of the Ad-Pen to be offered to the claimant.
12. A copy of the overpayment calculation and the Decision Maker's (DM's) decision must be provided with the reply.
13. AG1 (Part 2) must be completed on behalf of the Secretary of State or LA by the Counter Fraud Compliance Directorate (CFCD) Team Leader, Higher Investigations Leader, LA Fraud Manager or appropriate LA officer.
14. The [AG2 \(link is external\)](#) is used to notify the outcome of the Ad-Pen action, where the function of offering an Ad-Pen has been delegated, and includes a copy of the Ad-Pen agreement form where the Ad-Pen is accepted. It is completed and sent to the other organisation following expiry of the 14 day (28 day if the offence was prior to 8th May 2012) cooling off period from and including the day the agreement was signed. The AG2 is signed on behalf of the Secretary of State, LA by the CFCD Team Leader, Higher Investigations Leader, LA Fraud Manager or appropriate LA officer.
15. The LA can offer Ad-Pens in respect of overpaid Housing Benefit (HB) and/or Council Tax Benefit (CTB) (prior to April 1st 2013) but not in respect of DWP administered benefits, for example, Income Support (IS), Jobseekers Allowance (JSA), unless DWP has agreed to delegate the function of offering the Ad-Pen to the LA.

16. DWP can offer Ad-Pens in respect of overpaid DWP administered benefits but not in respect of HB and/or CTB unless the LA has agreed to delegate the function of offering the Ad-Pen to the DWP.

17. Staff in DWP and LA should liaise closely where Ad-Pen action is intended. In some cases, it may be appropriate to consider criminal proceedings for both the DWP and the LA overpayments. This applies in DWP particularly where the total overpayment, for example IS plus HB/CTB is over £2000 (prior to 1 April 2013).

18. This applies in DWP particularly where the total overpayment, for example IS plus HB or CTB, amounts to more than £3,000, and occurred on or after 10th April 2017 see [Liaison between DWP and LAs](#).

19. If this amounts to more than £5,000 (cases where the Interview under Caution is conducted on or after the 14th of August 2017) or £3,000 (where the Interview under Caution is conducted prior to the 14th of August 2017).

Delegation of Function process

Local Authority interests

1. To request a decision and overpayment calculation from the Local Authority (LA) the investigator must:

- complete part 4.1 of the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form)
- embed all appropriate evidence including the [Ref2 \(link is external\)](#), DWP decision or Tax Credit decision (where applicable)
- email the LAIEF to the LA Single Point of Contact (SPOC)
- proceed with a DWP prosecution if needed, you do not have to delay for any LA overpayment decision.

If you are investigating an HB only case requiring an LA decision, the LA decision must be obtained as soon as possible. Review activities must be set and updates recorded in FRAIMS to make sure the decision is received in a timely manner.

2. The LA SPOC will:

- complete part 4.2 of the LAIEF
- embed the decision and overpayment notification
- return the LAIEF to the investigator by email.

3. If an Administrative Penalty (Ad-Pen) is considered appropriate the investigator must:

- complete part 1 of form AG1
- embed [AG1 \(link is external\)](#) into part 5.1 of the LAIEF
- email the LAIEF to the LA SPOC.

4. If the LA SPOC agrees that an Ad-Pen is appropriate, and delegates the function to offer an Ad-Pen, the LA will:

- complete part 2 of the AG1
- embed it into part 5.2 of the LAIEF
- return the LAIEF to the investigator by email.

5. If the LA agrees to the Ad-Pen, the investigator must follow the process outlined in 03 Ad Pen action.

6. If the LA does not agree to an Ad-Pen, and the case is not suitable for prosecution due to exceptional circumstances, see [Cases not suitable for prosecution](#), the investigator must complete part 8.1 of the LAIEF and email it to the LA SPOC for closure action. If the case is suitable for prosecution take appropriate action, see [Prosecution File Preparation](#).

Local Authority only investigations

7. The Local Authority (LA), following conclusion of the Interview Under Caution (IUC), will:

- issue [FPA4 \(link is external\)](#) and C.PEN to the Department for Work and Pensions (DWP) for:
 - a decision on current and past entitlement and request the overpayment calculation of DWP benefit
 - to request details of any previous fraud penalty action within the past five years performed by the DWP
 - on return of the FPA4 Reply Section have the Housing Benefit (HB) or Council Tax Benefit (CTB) overpayment calculated and suspended, if appropriate
 - following receipt of notifications of the overpaid DWP benefit and HB or CTB, make a decision whether or not to offer an Administrative Penalty (Ad-Pen)
 - and on return of the C.PEN, if Ad-Pen is still appropriate, issue [AG1 \(link is external\)](#) to the Counter Fraud Compliance Directorate (CFCD) Team Leader or Higher Investigations Leader with copies of the evidence, Interview Under Caution (IUC) transcripts and copies of all overpayment decisions
 - where the CFCD Team Leader or Higher Investigations Leader agrees that an Ad-Pen is the appropriate way of dealing with the offence and to the delegation of the function they will return the AG1 (Part 2) to the LA Fraud Manager (FM)
8. The LA may now offer an Ad-Pen on behalf of both organisations.

Counter Fraud Compliance Directorate (CFCD), only investigations

9. Counter Fraud Compliance Directorate (CFCD), following the conclusion of the Interview Under Caution (IUC), have the Department for Work and Pensions (DWP) overpayment calculated, if it has not already been done and decide if the offer of an Ad-Pen is appropriate. If so, they:

- issue FPA4 Investigation Result (DWP) to the LA
- check for any previous fraud penalty action on any case linked to the current case
- check the returned FPA4 Reply Section. If Ad-Pen is still appropriate issue AG1 to LA Fraud Manager with copies of, the IUC transcripts and all overpayments decisions. FRAIMS can be used to check for the numbers of FPA4s outstanding with LAs.

10. If the LA Fraud Manager agrees that an Ad-Pen is the appropriate way of dealing with the offence and to the delegation of the function they will return AG1 (Part 2) to the CFCD Team Leader or Higher Investigations Leader.

11. Record the notification of Delegation of Function request to the Local Authority on FRAIMS, see [FRAIMS Guidance – Delegation of Functions – Cautions & Administrative Penalties](#).

12. CFCD may now offer an Ad-Pen on behalf of both organisations.

Joint investigations

13. In joint investigations it should be decided which organisation will be the lead for prosecution and fraud penalty action.

14. Each organisation ensures that the overpayment is calculated for the benefit(s) they administer and pass the overpayment decisions to the lead organisation for the relevant fraud penalty action, for example, Caution, Ad-Pen or prosecution.

15. A joint decision must be made to determine whether the offer of an Ad-Pen is, or is not, the appropriate way of dealing with the offence.

16. If it is decided that an Ad-Pen is the appropriate way of dealing with the offence the lead organisation check for previous fraud penalties to ensure that a second Ad-Pen is not administered erroneously. In the DWP, details of the outcome of previous cases are recorded in Fraud Referral an Intervention Management System (FRAIMS) on the Contact record for the individual.

17. By interrogating the Contact Legal Outcome, Caution or Penalties view it can be determined if, during the previous five years, the claimant has:

- been convicted of benefit fraud

- agreed to pay an Ad-Pen
 - accepted a Caution.
18. If an Ad-Pen is still appropriate, the lead organisation issues the AG1 to the other organisations CFCD Team Leader or Higher Investigations Leader/LA Fraud Manager who returns the AG1 (Part 2).

Liaison between Department for Work and Pensions and Local Authorities

The normal liaison arrangements for the Local Authority (LA) and Department for Work and Pensions (DWP) to notify each other regarding investigation action must be closely followed if there is a possibility of offering a suspected person the choice of agreeing to pay an Administrative Penalty (Ad-Pen).

Investigators from either DWP or LA must consider whether prosecution is the first option because of the **total** amount of overpaid benefit if both DWP and LA:

- have calculated their overpayment and notified the person of the decision and their right of appeal and
- are content for either DWP or LA, usually whoever has taken the lead in the investigation, to take prosecution in respect of the other organisation's overpayment.

Example:

If JSA or IS of £3,500 has been overpaid and HB or CTB of £2000 has been overpaid, joint prosecution proceedings should be recommended in respect of both benefits.

The Investigations Team Leader or Investigations Senior Leader must only consider taking fraud penalty action on the DWP benefit, where the LA:

- has not been able to calculate the Housing Benefit (HB) or Council Tax Benefit (CTB) (prior to 1st April 2013) overpayment in sufficient time for DWP to take action
- does not wish the HB or CTB offences to be considered for DWP fraud penalty purposes
- HB or CTB overpayment and the DWP benefit overpayment does not jointly exceed £5,000 and prosecution for both DWP and LA offences is not a first option.

Counter Fraud and Compliance Directorate

Use the [FPA5 \(link is external\)](#) to notify the LA that:

- criminal proceedings are instituted on both DWP and LA offences
- criminal proceedings are instituted on DWP or LA offences only
- no further action is taken, for example, criminal proceedings are not pursued and Ad-Pen action is not taken.

Record the actions taken by creating an activity on the case on FRAIMS, see [FRAIMS Guidance – FES initiate the request](#).

Local Authority

Use the FPA5 to notify DWP that:

- criminal proceedings are instituted on both DWP and LA offences
- criminal proceedings are instituted on DWP or LA offences only
- no further action is taken, for example, criminal proceedings are not pursued and Ad-Pen action is not taken

When an FPA5 is received, record the receipt by creating an activity on the case on FRAIMS, see [FRAIMS Guidance – Notification of a Local Authority Investigation](#).

If DWP do not take any action in respect of the HB or CTB overpayment or offences, LA may subsequently decide to:

- offer the person the choice of agreeing to pay an Ad-Pen

- recommend criminal proceedings for the LA overpayment
If the LA do not take any action in respect of the DWP overpayment or offences, DWP may subsequently decide to;
- offer the person the choice of agreeing to pay an Ad-Pen
- recommend criminal proceedings for the DWP overpayment.

Local Authority interests

To notify the Local Authority of investigation action, use the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form).

Local Authority Information Exchange Forms

Local Authority Information Exchange Forms (LAIEFs) are used by both Investigations and Compliance. The purpose of the form is to exchange information with Local Authorities regarding details of current investigations where current or previous claims to Housing Benefit and/or Council Tax Benefit may be affected. They may be issued by CFCD:

- to request information or documents in connection with current or past Housing Benefit/Council Tax Benefit claims; or
- to notify Local Authorities of information received or to inform the Local Authority of the outcome of an investigation.

Considering whether a LAIEF is appropriate

LAIEFs must only be issued where evidence is held that Housing Benefit/Council Tax Benefit has been in payment during the period of the offence. Such evidence may include:

- Local Authority markers on legacy benefit systems such as ISCS or JSAPS
- Housing Benefit/Council Tax Benefit indicators recorded on the Customer Information System (CIS)
- a referral originating from a Local Authority or indications on the FRF that Housing Benefit/Council Tax Benefit was in payment during the offence period or
- claim forms to legacy benefits that indicate a claim to Housing Benefit/Council Tax Benefit may have been made.

LAIEFs **can not** be issued to Local Authorities if there is no evidence that a claim to Housing Benefit/Council Tax Benefit has been made during the offence period.

Recording the issue of the LAIEF on FRAIMS

Information or documents required

Once it has been established that there is a justifiable business reason to request Housing Benefit/Council Tax Benefit details from the relevant Local Authority, record the issue of a LAIEF as an activity on [FRAIMS](#).

When the requested information or documentation is supplied, the activity line in [FRAIMS](#) will need to be updated.

Record this activity on FRAIMS every time a request is made to the Local Authority for information or documents. This is because it provides a consistent, reliable and accountable record of the information requests issued by CFCD to Local Authorities. Information requests to Local Authorities must therefore always be made on a LAIEF and recorded on FRAIMS.

No Local Authority response required

LAIEFs that do not require a response from the Local Authority must be recorded on FRAIMS differently to those where information or documents are being requested. This is because the number of requests made for information from Local Authorities need to be readily distinguishable from routine notifications. Examples of routine notifications may include where the investigation is complete and the LAIEF is used to notify the Local Authority of the investigation outcome.

If a LAIEF is issued **but CFCD do not require a response**, record the activity on [FRAIMS](#)

06 Aide-memoire for conducting Administrative Penalty interviews

Details of the offence

- tell the claimant or employer the Department for Work and Pensions (DWP)/Local Authorities (LAs) believes they have committed an offence
- what offence has been committed
- evidence shown to person and
- remind person, if appropriate, that they admitted the offence during the Interview Under Caution (IUC)

Seriousness of offence

- advise the person that defrauding the DWP or LAs is a serious offence
- tell person the DWP has sufficient evidence to submit the case to the Crown Prosecution Service/Procurator Fiscal.

Explanation of an Administrative Penalty

- advise that it is a financial Administrative Penalty (Ad-Pen) that a person may agree to pay if they have committed an offence
- explain that legislation governs when an Ad-Pen can be offered
- if required, the legislation is Social Security Administration Act (SSAA) 1992:
 - Section 115A, in claimant cases and
 - Section 115B, in employer cases
- advise that a person can be offered the choice to agree to pay an Ad-Pen as an alternative to prosecution in the specified manner because the Secretary of State or LA believes that they have committed an offence

Employer cases

An Administrative Penalty (Ad-Pen) may be offered to an employer who has committed an offence of:

- making a false statement
- obstructing an Authorised Officer
- failing to provide the required information
- false accounting.

In these cases, the amount of the Ad-Pen is £1,000.

However, if the:

- Ad-Pen is being offered to an employer and
- grounds for starting proceedings against them is because of incitement, conspiracy or aiding and abetting (England and Wales) and (Scotland) that facilitates the commission of a benefit offence by employee(s)
- employer's conduct involved five or more employees.

In these circumstances, the amount of the Ad-Pen is £5,000.

In all other cases and where the employer has less than five employees the amount of the Ad-Pen is £1,000 multiplied by the number of employees involved in the employer's conduct.

- advise the employer that the decision to recover an Ad-Pen, if the employer agrees to pay one, is a Secretary of State or LA decision against which there is no right of appeal. The amount of the Ad-Pen is set by statute
- tell the employer how the Ad-Pen will be recovered. Repayment can be done by the employer making voluntary payments, invoices might be issued by DWP and/or the LA or, if necessary the Department or LA will take legal action through the civil courts to recover the debt. This could involve obtaining an Attachment of Earnings Order in England and Wales or an Arrestment of Wages in Scotland

- advise the employer that the agreement only relates to the offences being discussed. If, however, evidence of a more serious fraud comes to light, criminal proceedings may be taken against the employer
- an Ad-Pen is a financial penalty which can be offered to an employer, who, DWP or LA believes, has committed an offence and there are grounds for instituting proceedings against them for a criminal offence relating to the overpayment
- an Ad-Pen can also be offered to an employer where there has been an attempted fraud, which has been discovered before any overpayment of benefit has been made and there are grounds for instituting proceedings against them for a criminal offence in respect of the attempted fraud
- tell the employer that because DWP/LA believes they have committed a criminal offence for which they could be prosecuted, the conditions for offering them the choice of agreeing to pay an Ad-Pen have been satisfied
- advise the employer they are not obliged to agree to pay an Ad-Pen, but if they choose not to, DWP/LA will pass their papers to the prosecuting authorities to consider taking criminal proceedings against them
- the employer must be shown the Ad-Pen agreement ADPEN 9E / ADPEN 9EW. Advise the employer that if they agree to pay an Ad-Pen and sign the Ad-Pen agreement, no criminal proceedings will be instigated by the DWP or LA for any offence in respect of that particular overpayment or offence
- explain that this does not give them immunity in relation to any other offences, which they may have committed in relation to other existing or future offences
- explain that by agreeing to pay an Ad-Pen, the employer does not incur a criminal record and the fact they have agreed to pay an Ad-Pen cannot be mentioned in court should the individual ever, in the future, be prosecuted for any other offence
- advise the employer that if they wish to agree to pay an Ad-Pen and sign the Ad-Pen agreement form, they have 14 calendar days (28 calendar days if the offence is prior to 8th May 2012) from, and including, the date of signing in which to change their mind and notify the Secretary of State or LA of their withdrawal from that agreement
- this notification must be in the specified manner. Inform the employer that if they do withdraw from the agreement, DWP will pass their case to the relevant prosecuting authority to consider criminal proceedings
- remind the employer they may like to consider seeking independent advice, for example, from a solicitor, a Citizens Advice Bureau or Welfare Rights organisation during the 14 (or 28 days if the offence occurred prior to 8th May 2012) day period.

Claimant cases

- legislation lays down that the Ad-Pen must be 30% of the overpayment (prior to 8th May 2012) decided by the Decision Maker (DM) and rounded down to the nearest penny
- for offences which occurred on or after 8th May 2012:
 - the minimum Ad-Pen which can be offered is £350
 - for overpayments totalling over £700, the Ad-Pen is set at 50% of the recoverable overpayment, rounded down to the nearest whole penny
 - up to a maximum Ad-Pen of:
 - £2,000 where the offences began before 1 April 2015
 - £5,000 where the offences began wholly on or after 1 April 2015
 - attempted fraud where there is no overpayment, the Ad-Pen which can be offered is £350.
- advise, if appropriate, that if a late claim is made and arrears paid after a decision has been made on the overpayment, the amount overpaid or the amount of the Ad-Pen is not effected, although the arrears will be used to reduce some of the overpayment
- advise that the overpayment will be recovered from weekly benefit or by other means whether the person agrees to pay an Ad-Pen or not
- advise that a person is not obliged to pay an Ad-Pen but, if declined, the DWP or LA will consider prosecution
- show the person the Ad-Pen agreement form
- advise that if a person agrees to pay an Ad-Pen, the DWP/LA will not prosecute in respect of that offence

- advise the claimant that they have a 14 calendar days (28 calendar days for offences occurring prior to 8th May 2012) cooling off period if they agree to pay an Ad-Pen. They can withdraw the agreement in a specified manner if they want to
- advise that If the agreement is withdrawn, the DWP/LA will consider prosecution
- advise the person they can seek independent advice from a solicitor, Citizens Advice Bureau (CAB) or other welfare or advisory service during the 14 calendar days (28 calendar days for offences occurring prior to 8th May 2012)
- advise there is no right of appeal against the offer and imposition of an Ad-Pen (if a person agrees to pay one)
- advise the claimant that if they agree to pay an Ad-Pen and the overpayment is later revised, the Ad-Pen agreement will be invalid, not employer Ad-Pen cases

Advising claimant of One Strike fraud penalty

- advise claimant that any Social Security benefit they receive in the future may be the subject of a reduction or withdrawal for 4 weeks
- explain that this is a fraud penalty in accordance with Social Security (Loss of Benefit) Amendment Regulations 2010
- consider if you need to confirm the claimant's understanding of what the fraud penalty means

Ensuring the person understands what has been discussed

- does the person understand everything?
- do you need to ask the person questions to make sure they understand?
- does the person want to ask questions or need you to go over any points again?

Offering the Administrative Penalty

- does the person agree to pay an Ad-Pen?
- is the Ad-Pen agreement form signed in triplicate or photocopied?
- has the person been given a copy of the Ad-Pen agreement?
- give the person a copy of the [LBS1 AC \(link is external\)](#) / [LBS1 ACW \(link is external\)](#)
- has a copy been given to the person with the [ADPEN11 \(link is external\)](#) / [ADPEN11W \(link is external\)](#)
- if a person does not want to agree to pay an Ad-Pen, has a non-acceptance form been signed?
- has the file been passed to the prosecuting authorities for consideration of prosecution?
- if a person requires more time to consider, allow five working days if there is a good reason for the request

Post interview action

- has the agreement been withdrawn during the 14 calendar day (28 calendar days for offences occurring prior to 8th May 2012) period?
- if withdrawn, send the file to the prosecuting authorities
- if additional time has been allowed for a person to consider and their response is received within five working days, proceed according to their response
- if additional time has been allowed for a person to consider and there has been no response within five working days, prepare the case for submission to the prosecuting authorities and complete an ADPEN.15E form
- for Single Fraud Investigations complete part 8.3 of the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form), embed the appropriate forms and attachments and email it to the LA SPOC
- enter a summary of the Ad-Pen interview on Fraud Referral and Intervention Management System (FRAIMS).

07 Administrative Penalties Reference Guide

Ad- Pen Calculations and Commonly Used Forms

1

Cases with an offence start date wholly on or before 08/05/2012

In exceptional circumstances, the Team Leader/Higher Investigations Leader may consider a case suitable for an Ad-Pen where the overpayment is more than £2,000. It is envisaged that this discretion will be used rarely.

An Employer Ad-Pen can only be offered in respect of an offence that occurred after the commencement date of 30 April 2002

if the overpayment started before 18 December 1997, the date Ad-Pen were introduced, an Ad-Pen can only be offered on that part of the recoverable overpayment, which has accrued since that date

in a failure to report a change of circumstances case, where no false statement exists, an Ad-Pen can only be offered if the whole of the overpayment occurred after 1 December 2001, the date this offence was introduced

Ad-Pen Calculation

30% of the recoverable overpayment, rounded down to the nearest whole penny.

Cases with more than one recoverable overpayment

Same offence type, different periods of offence , providing one of the overpayment periods commenced before 08/05/2012 total overpayments aggregated and Ad-Pen calculated as 30% of the total overpayment.

If one or more of the recoverable overpayments commenced after 8 May 2012 and relates to a completely different offence, for example offences prior to 8 May 2012 were failure to declare employment, and after 8 May 2012 was Living Together, the Ad-Pen for the overpayments prior to 8 May will be calculated at 30% of the overpayment

DWP & HB	Invitation to interview ()	ADPEN 6D (link is external)
	Ad-Pen Acceptance	ADPEN 9 (D) LBS (link is external) (DWP & HB Benefits) & LBS1 (AC) (link is external) See LOB (link is external)
DWP only	Invitation to Interview -	ADPEN 6A (link is external)
	Ad-Pen Acceptance	ADPEN 9(C) LBS (link is external) x 2 copies & LBS1 (AC) (link is external) See LOB (link is

		external)
HB only	Invitation to Interview (cases)	ADPEN 6AJW (link is external)
	Ad- Pen acceptance	ADPEN 9 (C) LBS (HB-CTB) (link is external) for HB only cases & LBS1 (AC) (link is external) See LOB (link is external)
	Ad-Pen Cooling off	ADPEN 11 (link is external)
	Ad-Pen non acceptance	ADPEN 12 (link is external)
Ad-Pen includes HB overpayment	Joint Working with Local Authority Delegation of Functions	AG1 (link is external) points 1 and 2
	Delegation of functions – Outcome sent to LA	AG2 (link is external) Acceptance with LAIEF (link is external) See LOB (link is external)
Record Ad-Pen activity on the FRAIMS case – see Administrative Penalties (link is external)		
2	Cases with an offence start date wholly on or after 08/05/2012 and before 1/04/2015	
<p>Ad-Pen Calculation Overpayment £700 or less, minimum Ad-Pen of £350 Overpayment(s) more than £700, Ad-Pen 50% of the recoverable overpayment, rounded down to the nearest whole penny.</p>		
DWP &HB	Invitation to interview ()	AP106D (link is external)

	Ad-Pen Acceptance	AP109D (link is external) & LOB (AC) (link is external) See LOB (link is external)
DWP Benefits only	Invitation to Interview	ADPEN 6B (link is external)
	Ad-Pen Acceptance	ADPEN 9(C) LBS (link is external) & LOB (AC) (link is external) See LOB (link is external)
HB only	Invitation to interview	ADPEN 6BJW (link is external)
	Ad- Pen acceptance	ADPEN 9 (C) LBS (HB-CTB) (link is external) & LOB (AC) (link is external) See LOB (link is external)
	Ad-Pen Cooling off	ADPEN 11 (link is external)
	Ad-Pen non acceptance	ADPEN 12 (link is external)
Ad-Pen includes HB overpayment	Joint Working with Local Authority Delegation of Functions	AG1 (link is external) points 1 and 2
	Delegation of functions – Outcome sent to LA	AG2 (link is external) Acceptance with LAIEF (link is external) See LOB (link is external)
Record Ad-Pen activity on the FRAIMS case – see Administrative Penalties (link is external)		
3	Cases with an offence start date wholly on or after 1 April 2015	
<p>Maximum Ad-Pen for Offences occurring wholly on or after 01 April 2015 minimum Ad-Pen of £350 if overpayment is £700 or less Ad-Pen 50% of the recoverable overpayment, rounded down to the nearest whole penny up to a maximum Ad-Pen of £5000 (in exceptional cases only).</p>		

DWP & HB	Invitation to Interview	AP106 (D) (link is external)
	Ad-Pen Acceptance	AP109D (link is external) & LOB (AC) (link is external) See LOB (link is external)
DWP only	Invitation to Interview	ADPEN 6 (C) (link is external)
	Ad-Pen Acceptance	ADPEN 9 (C) LBS (link is external) & LOB (AC) (link is external) See LOB (link is external)
HB only	Invitation to interview	ADPEN 6CJW (link is external)
	Ad- Pen acceptance	ADPEN9 (C) LBS (HB-CTB) (link is external) & LOB (AC) (link is external) See LOB (link is external)
	Ad-Pen Cooling off	ADPEN 11 (link is external)
	Ad-Pen non acceptance	ADPEN 12 (link is external)
Ad-Pen includes HB overpayment	Joint Working with Local Authority Delegation of Functions	AG1 (link is external) points 1 and 2
	Delegation of functions – Outcome sent to LA	AG2 (link is external) acceptance – with LAIEF (link is external) See LOB (link is external)
Record Ad-Pen activity on the FRAIMS case – see Administrative Penalties (link is external)		
4	Attempt only cases	

<p>Ad-Pen Calculation - Admin Penalty for Attempt (link is external) The amount of the Ad-Pen is £350. For recording purposes, a non-recoverable overpayment of £0.00 must be recorded on FRAIMS. Attempt (link is external)</p>	
Invitation to Interview	ADPEN 106C (A) (link is external)
Ad-Pen Acceptance	ADPEN 109C (A) (link is external) & LOB (AC) (link is external)
5	<p>Notification to Debt Centre – ADPEN 14 (link is external) not required unless exceptions apply, for example collusive employer There is no need to send ADPEN14 in any other circumstance as the Debt Centres take information directly from FRAIMS through their own actions.</p>
6	<p>Employer Administrative Penalties</p>
<p>Ad-Pen Calculation - Employer Administrative Penalties (link is external)</p>	
<p>Ad-Pen of £1000 may be offered to Employer for following offences: of making a false statement obstructing an Authorised Officer failing to provide the necessary information or, false accounting. Where an employer has committed an offence regarding employment of employees knowingly being aware that they are claiming a state benefit. This is multiplied for each employee that they have committed this offence for, e.g 3 employees x £1000 = £3000 Ad-Pen. Repeat offences must be considered for prosecution.</p>	<p>Ad-Pen of £5000 If the grounds for starting proceedings against Employer is due to: incitement conspiracy or aiding and abetting (England and Wales), art and part (Scotland). Maximum of £5000 Ad-Pen for employers who have knowingly employed employees who are claiming State Benefits, where this involves 5 or more staff. Repeat offences must be considered for prosecution.</p>
Invitation to Interview – Employer	ADPEN 6E(A) (link is external)

Information not received	
Invitation to Interview – Employer – Intentionally delayed/obstructed	ADPEN 6E(B) (link is external)
Ad-Pen Agreement – Employer	ADPEN 9E (link is external)
Record Ad-Pen activity on the FRAIMS case – see Administrative Penalties (link is external)	

08 Central Referral Service (CRS) process for UC attempted fraud cases

1. The Welfare Reform Act 2012 made provision for cases of attempted fraud to be offered a £350 Administrative Penalty as a deterrent. It is DWP Policy to pursue these attempted fraud cases, where there is no overpayment and offer a £350 Administrative Penalty as an appropriate response, with the option of prosecuting if the Ad Pen is refused.

2. Where, when making a claim to UC:

- a claimant has not declared earnings and
- they have signed the Claimant Commitment stating they are looking for work and signed the Non-Repudiation Document (NRD) stating they are not currently employed (dishonest/false statement).

3. The Real Time Information (RTI) feed broadcast to UC from HMRC, will action when the UC assessment is calculated. Any earnings identified will be taken into account whether declared or not in calculating entitlement ensuring that there will be no overpayment.

4. Although there is no overpayment this is an 'attempt' to defraud the department and CFCD have committed to investigating all of these cases in their entirety. This will deliver a clear message supporting the Departmental Fraud Strategy of prevention, detection and deterrence. These cases must not therefore be referred to Compliance or CFCD Interventions.

5. These cases will be investigated in line with current prosecution policy and guidance to a prosecutable standard but the majority will more likely be deemed as more suitable for the offer of an Ad Pen of £350.00 rather than for prosecution.

6. The Claimant Commitment and Non-Repudiation Document will provide two false statements which may be used in a Prosecution 'attempt' case, if the £350.00 Ad Pen and Loss of Benefit (LOB) are not accepted.

7. The UC 'attempt' fraud referral will have the offence type

- 'Working in receipt of benefits' for earned income, or
- 'Undeclared assets' for Occupational Pension.

8. The UC agent will note in the 'Other Information' free text field of the fraud referral form 'PRIORITY UC ATTEMPTED FRAUD ONLY'
9. Case Preparation will run a daily Pre-Defined Queries (PDQ) to identify attempt / prepayment cases: (the initial activity comment line pulled into FRAIMS from FRF will read, 'PRIORITY UC ATTEMPTED FRAUD ONLY.'
10. Pre-payment cases will be prioritised to ensure they are dealt with efficiently to prevent UC from being paid.
11. Once CRS Operatives have identified these types of referrals, the opening minute only needs to be noted with either:
 - PRIORITY UC WORKING AND CLAIMING ATTEMPTED FRAUD or
 - POTENTIAL OCC PEN OVERPAYMENT CASE.
12. The case then needs to be routed to the appropriate Investigations FRAIMS inbox.

Factors to consider

13. Has the claimant actually tried to commit dishonest or false representation offences?
14. How far have they gone to try and obtain the benefit relying on a dishonest or false representation?
15. The claimant must have done more than a preparatory act, for example, they have made a false/dishonest statement with the intention of attempting to commit fraud:
 - has the claimant actually submitted an application for the benefit?
 - do the errors/discrepancies in the form/validation process provide clear evidence of either false or dishonest representations? Questioning at the IUC should establish what was in the mind of the claimant when they made the claim.
16. Evidence in a UC 'attempted' fraud case could include contradictory evidence regarding key dates, names, income/capital, incorrect employment dates.

Investigation action for UC attempted fraud cases

17. In 'Working in receipt of benefits' for earned income cases the Investigator must obtain Claimant commitment and Non-repudiation Document (NRD) from Document Repository System (DRS). If UC view only is not available, request the RTI screen prints from the [UC Service Centre](#), see: [Process to obtain UC information](#).
18. The claimant will be invited to attend for Interview Under Caution (IUC) in the normal way and following interview the Investigator must consider if;
 - prosecution or an Ad Pen is appropriate
 - the case should be closed with no further action.
19. If the resolution is to offer an Ad Pen, a UC overpayment decision from a Universal Credit Decision Maker (UCDM) is not required as there is no overpayment. However, the Secretary of State letter UC371 (system generated) which provides a decision of entitlement is required on all cases and is located in DRS.
20. If an Ad Pen is offered and accepted, action on FRAIMs and issue Loss of Benefit penalties (LOB) notification to UC.
21. If an Ad Pen is refused consider Prosecution action. Only when the resolution is to prosecute is a UCDM witness statement required to substantiate a notional overpayment calculation.
22. If the decision is to close the case with no further action, record the closure on FRAIMs.

Other Attempted Fraud scenarios

Occupational Pension cases

23. There is no legal gateway to automatically deduct Occupational Pension by the RTI feed.

24. There could be rare occasions when an attempted fraud can be considered, for example, Occupational Pension reported via RTI feed and not declared by the claimant.

25. All Occupational Pension cases reported via the RTI feed need to be investigated as a priority to obtain all the relevant information.

26. Attempted fraud can only be considered when there is a dishonest/false statement and evidence has been obtained by CFCD to prevent an incorrect award and submitted to UC resulting in no overpayment.

Capital UC Pre Investigation Team (PIT) match case

27. The Counter Fraud Capability process does not automatically prevent an overpayment of UC. All PIT UC capital match cases need to be investigated as a priority to obtain all the relevant information.

28. Attempted fraud can only be considered in the event of a UC PIT match for capital where there is a dishonest/false statement and evidence has been obtained by CFCD to prevent an incorrect award and submitted to UC resulting in no overpayment.

CFCD suspended benefit before any UC payment made

29. There may be other occasions where DWP has intervened in a new claim to UC and CFCD has suspended the award preventing any overpayment. For example, an FRF is received that a new claim to UC is incorrect, a single parent has included children in their claim but the children are in local authority (LA) care and not eligible to UC. CFCD obtains the evidence and suspends the payment before a payment to UC is made.

30. Attempted fraud may be considered in the event where there is a dishonest/false statement and evidence has been obtained by CFCD to prevent an incorrect award and submitted to UC resulting in no overpayment.

Overpayments of UC

31. Where there is an overpayment of UC this is not an Attempt case. These cases must be progressed in line with the current investigative instructions (false from outset or change of circumstances).

Process to obtain UC information

Fraud Investigators and Compliance Officers may not have access to UC Core, Work Services Platform or any payment information on Payment Manager and Central Payment System. (There is however no restriction in applying for these).

Before any request is made, Investigations and Compliance must retrieve anything relevant held in DRS to ascertain if further information is required.

If further information is required about UC, Investigations and Compliance staff must complete the Investigations/Compliance template, UC Request for Information (UC RFI). The UC CFCD/CC RFI must be saved locally before completion. Then enter:

- the claimant's name, national insurance number and date of birth
- the originator, contact number and email address details
- a tick next to the data required and the 'from and to' dates.

No other entries should be made on the form, including in the notes/attachments box.

Attach the [UC RFI \(link is external\)](#) to an email and sent to the UC Service Centre Operations single point of contact (SPOC) at: **[Redacted]**
The subject heading must read, 'RESTRICTED DATA UC – CFCD/CC REQUEST FOR INFORMATION – For the attention of Investigations SPOC'.

The SPOC will then retrieve the email from this email inbox, embed the screen prints into the UC RFI and return to the originator.

Suspending a UC claim

39. In order to suspend a UC claim, complete the [suspension form \(link is external\)](#), and send to the UC inbox: **[Redacted]**

40. In the email subject line, enter 'UC SUSPENSION REQUEST - For the attention of Deborah Knowles (suspension)'. The response is emailed back to the originator, once action has been taken.

Obtaining a UC decision

41. Once the investigation has been completed, in order to obtain an overpayment decision, the REF 2 needs to be sent to the UC decision maker via the UC secure in- box: **[Redacted]**

42. UC decision makers make UC and Legacy decisions in any cases where there is a UC element, therefore these types of cases must not be sent to Decision Making Unit (DMU)s in **[Redacted]** and **[Redacted]**.

43. Completion is as per our current instructions: enter national insurance number and all benefits that require a decision. The subject line must be marked 'Restricted Investigation'.

44. On FRAIMS, associate the UC DMU to the case, in pathfinder offices this DMU will be **[Redaction]**.

45. Complete the activity on FRAIMS as current practice

Arrest

00 Introduction

Overview

1. The Serious Organised Crime and Police Act 2005 (SOCPA), which came into force on 1 January 2006, changed the concept of seriousness with the test of necessity in determining whether an arrest should be made without a warrant. From 1 January 2006 all offences in England and Wales carry the power of arrest without a warrant if the conditions for arrest are satisfied.

2. SOCPA does not apply in Scotland and, so far as is relevant, powers of arrest are governed by Common Law.

Powers of arrest

3. In England and Wales, Section 24A of the Police and Criminal Evidence Act (PACE) 1984 confers a power of arrest to persons other than police constables in circumstances where it is believed someone has committed, or are suspected of having committed indictable offences. These are cases that could be heard in the Crown Court. This statutory citizen's power of arrest, which is what this is, could enable investigators to arrest persons who have committed or are suspected of having committed indictable benefit offences.

4. In Scotland a citizen's arrest is possible under Common Law.

5. However, the risks and consequences in exercising these powers wrongly, either under PACE or Common Law, are such that it is the Department's policy that investigators **must not** exercise powers of arrest.

6. A person who wrongly exercises the power of arrest could leave themselves or the Department, liable to a civil and/or criminal action for trespass to the person, wrongful arrest or false imprisonment.

7. Where it is considered necessary and reasonable to arrest a suspect, the Police must be requested to undertake this action on the Department's behalf.

8. Investigators must not detain or hold a person against their will, such as preventing someone from leaving a post office whilst waiting for the police to arrive.

01 Considerations for arrest

When can an arrest be considered?

1. In England and Wales a lawful arrest without a warrant will require two elements:

- a person's actual, suspected or attempted involvement in the commission of a criminal offence and
- reasonable grounds for believing that the person's arrest is necessary.

2. In Scotland, the test is similar, but is not set out in legislation. The requirements of Common Law can be summarised as follows:

- the arresting officer must have a reasonable belief that the arrest is necessary in the interests of justice and
- they must have witnessed a crime being committed, or attempted, or violence being threatened, or have credible information that a serious crime has recently been committed.

3. The Department for Work and Pensions (DWP) may be liable for damages if, because of negligence, information provided by their investigators to the police is inaccurate or misleading and reasonable steps were not taken to verify the information.

Failure to attend an Interview Under Caution

4. Investigators must not refer cases to the police simply because the claimant refuses to attend the Interview Under Caution (IUC). Each case must be considered on its own merits. In England and Wales this must also be in accordance with the necessity criteria set out in Police and Criminal Evidence Act (PACE) 1984 Code G 2.4 et seq.

5. In England and Wales if a claimant persistently refuses to attend an IUC, police intervention could be justified on the grounds that an arrest is necessary in order to allow the prompt and effective investigation of the offence or the conduct of the person in question, PACE Code G 2.9(e).

6. The Team Leader/Higher Investigations Leader must examine all cases where an IUC has not taken place and decide whether there is sufficient evidence to submit the case for prosecution without an interview.

7. Only as a last resort and in cases where the investigation cannot be progressed without an IUC should an approach to the police to consider an arrest be made. For further information, see [Interviews Under Caution](#).

8. In Scotland, refusal to attend an IUC would not itself give sufficient grounds for arrest. Instead consideration should be given to requesting that the police exercise their powers of detention under section 14 of the Criminal Procedure (Scotland) Act (CP(S)A) 1995. Under those powers the Police can hold and question a witness for up to six hours. At the conclusion of detention under section 14, the Police will be in a position to decide whether they have grounds to arrest the suspect.

9. A decision on whether to arrest or detain, in Scotland, a suspect can only be made by the police. The police have their own law enforcement priorities and may not always be able to accommodate DWP requests to arrest or detain persons suspected of committing benefit fraud. The police will also decide whether they can arrest without a warrant or if a warrant would be more appropriate.

02 Authorisation for arrest

Application process

1. All requests to approach the police to consider arrest must be made on the [PA1 \(link is external\)](#) or [PA1\(S\) \(link is external\)](#) and authorised by the Senior Investigations Leader or an officer of at least Band E grade..

2. The officer completing the application PA1/PA1(S) must ensure that the information contained within it is factual and accurate. Except where an [urgent authorisation](#) is required, the police must not be approached to consider an arrest until authorisation is obtained in writing on the PA1/PA1(S).

3. All details of the request and decision making process must be recorded on FRAIMS, see [FRAIMS guidance - Complete PA1](#).

Who can arrest

4. Arrest must never be requested simply because it can be used. An approach to the police must be fully justified and investigators must consider whether the necessary objectives can be met by other, less intrusive means, such as commencing criminal proceedings by summons, citation in Scotland.

5. Senior Investigations Leaders (SIL) should only authorise an approach to the police to consider an arrest if they are satisfied this is the only way that the investigation can be progressed.

6. When authorising an approach to the police, the SIL **must** show that an arrest is proportionate in relation to the offence and ensure that the police powers of arrest are not misused.

England and Wales

7. PACE COP G 2.4 to 2.9 states that the criteria for considering an arrest are:

- to obtain the name and/or address of the person and be satisfied with the information provided
- to prevent the person in question causing physical injury to himself or any other person
- suffering physical injury
- causing loss or damage to property

- committing an offence against public decency or
- causing an unlawful obstruction of the highway
- to protect a child or other vulnerable person from the person in question
- to allow the prompt and effective investigation of the offence or of the conduct of the person in question
- to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.

Scotland

8. There is no statutory list of criteria for establishing whether an arrest would be necessary in the interests of justice, but relevant factors would include:

- preventing the person absconding
- committing further crime
- harming himself or others
- hindering the course of justice by interfering with witnesses or evidence.

9. Detention under section 14 of Criminal Procedures (Scotland) Act (CP(S)A) 1995 is permitted only where a constable has reasonable grounds to suspect that a person has committed or is committing an offence punishable by imprisonment in the first instance.

10. Once authority to approach the Police has been received, the investigator should approach their local police contact by telephone or in person with the evidence to enable them to consider the request.

11. The SIL can only authorise an approach to the police to consider an arrest. The decision for actually carrying out the arrest lies with the police.

Combined arrest and search and seizure requests

12. Where a combined application is being made for both arrest and search and seizure actions a single [PA1 \(link is external\)](#) / [PA1\(S\) \(link is external\)](#) can be completed. This must be recorded on FRAIMS by completing both an activity to show the request for arrest authority and a separate activity to show the request for search and seizure authority, see FRAIMS Guidance: [Arrest - Complete PA1](#) and [Search and Seizure – Complete PA1](#).

13. To aid the Senior Investigations Leader, the PA1/PA1(S) must be attached to one activity and the other activity must be noted that the request is combined and detail in the Activity Description/Comments field where the completed PA1/PA1(S) can be located.

Urgent authorisation

14. There may be instances where the investigator has to make a quick decision on whether a suspect should be immediately arrested.

15. Where possible, verbal authorisation to approach the police should be obtained from the Senior Investigations Leader (SIL), or Team Leader/Higher Investigations Leader when the SIL is not available, but if this is not possible, the investigator may request that the police exercise their powers of arrest on their own authority.

16. All details of the request and decision making process must be recorded on FRAIMS, see [FRAIMS guidance - Authorising Managers Authorisation - Approve Application](#).

17. SILs **must** ensure that these occasions are exceptional and do not become common practice.

18. The investigator must advise the SIL of the arrest as soon as possible and complete the [PA1 \(link is external\)](#)/[PA1\(S\) \(link is external\)](#) on return to the office ensuring that the reason(s) for acting without prior authority are fully explained which should then be authorised by the SIL.

19. The SIL must complete the authorising officer's recommendation, urgent authorisation and comment sections of the form in all such cases.

03 Non-complex arrest and remand

Requesting charging advice from the Crown Prosecution Service

Non-complex arrest and remand process

In non-complex arrest and remand cases, the Investigator must complete the [PA1 \(link is external\)](#) form and refer to the appropriate Senior Investigations Leader (SIL) for authorisation to arrest a subject. There is no requirement for any contact with the Crown Prosecution Service (CPS) at this stage in the investigation.

The [MG3 \(link is external\)](#) (Arrest and Remand only) form must be completed by the Investigator providing summary details of the case and documenting what evidence is available. Additionally, the appropriate [Ethnicity Code](#) must be recorded where known. The MG3 must be completed prior to the arrest and stored in the appropriate electronic evidence folder. An electronic copy must also be sent to a designated Counter Fraud Compliance Directorate (CFCD) colleague, who will be responsible for forwarding the electronic MG3 on to the appropriate Crown Prosecution Service (CPS) office upon the subject's arrest.

Investigators must ensure that the MG3 form contains full details of the location of their normal CPS Welfare, Rural and Health (WRH) office and the police station responsible for the arrest.

Once the appropriate authorisations have been received, the investigator should make the necessary arrangements with their local police force to arrange the arrest of the subject.

Upon arrest, the investigator can obtain charging advice from CPS WRH or CPS Direct (CPSD), depending on the time of day the advice is required.

Arrest takes place between the hours of 09:00 and 17:00

If the arrest takes place between the hours of 09.00 and 17.00, regardless of when the charging advice is required, the investigator should contact the Crown Prosecution Service Welfare, Rural and Health (CPS WRH) office to inform them of the arrest. Full police station contact details, including fax number and official mobile phone number must be provided. The investigator must also arrange for the emailing of the [MG3 \(link is external\)](#) form and evidence to the appropriate CPS WRH inbox as soon as possible following the arrest.

A URN will be made available to Counter Fraud Compliance Directorate (CFCD) colleagues involved in the police arrest case.

Once the Interview Under Caution (IUC) has taken place and charging advice is required **prior to 17:00**, the investigator should contact the CPS WRH office that initially provided the URN. The investigator must give details of the URN and a summary of the interview. The CPS will fax the MG3 back to the police station with the appropriate charging advice.

If the suspect is remanded after 17:00, and is due in court the next morning, the investigator will need to make contact with the CPS WRH office which provided advice as soon as possible the following morning. This will ensure that correct procedures for court are followed by the CPS.

Once the IUC has taken place, and charging advice is required **after 17:00**, the investigator should contact CPS Direct (CPSD) by telephone on **[Redacted]** advising them of the appropriate [Police Force Identifier](#). CPSD will require the URN number obtained from the CPS WRH office. The CPSD lawyer will take details of the interview over the telephone and consider the case. A short written summary may be required in some cases.

Having considered the case and the evidence available, the CPS lawyer will complete the appropriate parts of the MG3 form with their decision and relevant charges. The completed form will be faxed back to the investigator on the number provided for the police station.

Arrest takes place after 17:00

If the arrest takes place after 17:00 and the investigator has not pre-registered the case with the appropriate Crown Prosecution Service Welfare, Rural and Health (CPS WRH) office, they must either send an email with the [MG3 \(link is external\)](#) form and supporting documentation to the CPS Direct (CPSD) mailbox: **[Redacted]**, or fax copies of the MG3 and supporting documentation, having obtained a fax number from CPSD.

The email should be in the following format:

- email header: WRHD/DWP/FESO case - suspect SURNAME - arrest due at 19:00
if for any reason arrest does not take place as anticipated, a follow up email must be sent to **[Redacted]**
- providing details.
Following the interview, the investigator must contact CPSD for advice by calling **[Redacted]** giving details of the case and evidence available.

If the arrest takes place after 17:00, and the MG3 and supporting documentation has not been sent through to CPS prior to the arrest, the investigator must contact CPSD by calling **[Redacted]**

The investigator must fax through the MG3 to the appropriate CPS lawyer. The investigator will need to retain a copy of the MG3 with them.

Crown Prosecution Service consideration

Having considered the case and available evidence, the Crown Prosecution Service (CPS) lawyer will complete the appropriate parts of the [MG3 \(link is external\)](#) form with their decision and relevant charges. The completed MG3 will be faxed to the police station on the number provided.

The investigator will not be required to attend court the next day, as the paperwork will go direct to the CPS advocates along with all other remand cases for that morning.

When CPS Direct (CPSD) has provided charging advice, they will send their decision to the Crown Prosecution Service Welfare, Rural and Health (CPS WRH) **[Redacted]** inbox.

CPS WRH **[Redaction]** will manage the case in the interim and contact the appropriate advocate to ensure attendance at court the next day.

CPSD prosecutors will forward the advice to the area mailbox to ensure that the CPS advocates at court are prepared for the case, including Fridays and Bank holidays. The papers for court will go direct to the CPS advocates along with all other remand cases for the morning, so attendance at court by the investigator will not be required.

Ethnicity Codes

Broad Ethnic Group	Code	Specific Cultural Background	Code
White	W	White - British	W1
		White - Irish	W2

		Any other White background	W9
Mixed	M	White and Black Caribbean	M1
		White and Black African	M2
		White and Asian	M3
		Any other Mixed background	M9
Asian or Asian British	A	Asian - Indian	A1
		Asian - Pakistani	A2
		Asian - Bangladeshi	A3
		Any other Asian background	A9
Black or Black British	B	Black - Caribbean	B1
		Black - African	B2
		Any other Black background	B9
Chinese or Other ethnic group	O	Chinese	O1
		Any Other ethnic group	O9
Not Stated	NS	Not Stated	NS

Police Force Identifiers

Force/Area	Force Code
Avon & Somerset	■
Bedfordshire	■
BTP	■
Cambridgeshire	■
Cheshire	■
Cleveland	■
Cumbria	■
Derbyshire	■
Dorset	■
Devon & Cornwall	■
Durham	■
Dyfed Powys	■
Essex	■
Gloucestershire	■
Greater Manchester	■

Gwent	■
Hampshire & IOW	■
Hertfordshire	■
Humberside	■
Kent	■
Lancashire	■
Leicestershire	■
Lincolnshire	■
London (Metropolitan)	■
Merseyside	■
Norfolk	■
North Wales	■
North Yorkshire	■
Northamptonshire	■
Northumbria	■
Nottinghamshire	■

South Wales	■
South Yorkshire	■
Staffordshire	■
Suffolk	■
Surrey	■
Sussex	■
Thames Valley	■
Warwickshire	■
West Mercia	■
West Midlands	■
West Yorkshire	■
Wiltshire	■
MoD Police*	■
UK Visas and Immigration*	■

Attempt

00 Introduction

1. The Real Time Information (RTI) system provides the Department of Work & Pensions with access to Her Majesty's Revenue and Customs (HMRC) data received from employers and pension providers
2. RTI data is used to generate:
 - Real Time Information Bulk Data Match referrals
 - Wider Use of Real Time Information Referrals incorporating data matches with heritage benefits.

Wider use of Real Time Information to include Heritage Benefits (Previously known as Legacy) referrals

3. WuRTI fraud cases will be handled in a similar way to RTI Bulk Data Matching cases. However, WuRTI will also identify 'Attempt' cases.

01 Attempted Fraud cases WuRTI

4. Although there is no overpayment on attempt cases CFCD have committed to investigating all of these cases in their entirety. This will deliver a clear message supporting the Departmental Fraud Strategy of prevention, detection and deterrence. These cases must not therefore be referred to Compliance or Interventions.
5. The Fraud Referral Form (FRF) will be generated by Benefits Directorate as per the specific benefit Fraud criteria.
6. Wherever possible benefit staff will take action to correct or terminate benefit on receipt of the RTI data.
7. Under no circumstances should referrals for Attempt cases received by Investigations be rerouted to Compliance.
8. For New Claims where there has been an attempt to defraud the Department, there will be 2 scenarios:
 - Benefit claim assessed, benefit put into payment taking into account the undeclared RTI information and an FRF completed explaining the non declaration of RTI information
 - Benefit claim disallowed as a result of the RTI data, benefit not put in payment and an FRF completed explaining the false declaration.
9. In both scenarios Operations will clearly note the FRF "RTI Attempt".
10. All RTI Attempt cases will be investigated in line with current prosecution policy and guidance to a prosecutable standard but the majority are likely to be deemed as more suitable

for the offer of an Administrative Penalty (Ad Pen), which has been set at £350.00 for Attempts, rather than for prosecution.

11. The claimant should be invited to attend for Interview Under Caution (IUC) in the normal way. Following the interview, the Investigator will consider if:

- prosecution or an Ad Pen is appropriate
- the case should be closed with no further action.

12. If the resolution is to offer an Ad Pen, no overpayment decision is required as there is no overpayment. However, the Secretary of State letter which provides a decision of entitlement is required on all cases.

13. If an Ad Pen is offered and accepted, action as now on FRAIMs and issue Loss of Benefit (LOB) notification.

14. If an Ad Pen is refused, consider Prosecution action. Only when the resolution is to prosecute is a witness statement required to substantiate a false declaration.

15. If the decision is to close the case with no further action record the closure on FRAIMs, as usual.

02 Case Preparation process for Heritage benefits attempted fraud cases

16. Although there is no overpayment on attempt cases, CFCD have committed to investigating all of these cases in their entirety. Attempt cases must therefore be routed to Investigations. They must not be routed to Compliance or CFCD Interventions.

17. The Heritage Benefit 'RTI Attempt' fraud referral will have one of the following offence types:

- working in receipt of benefits - for earned income
- undeclared assets - for Occupational Pension.

18. The Heritage benefit processor will note in the 'Other Information' free text field of the fraud referral form - RTI ATTEMPT.

19. The Heritage benefit processor will also enter a conversion date on the FRF. The conversion date will allow Case Preparation to locate any incidents that fall out of FRAIMs because there is no benefit in payment. These must then be rebuilt. It will also enable analysis of referrals from RTI.

20. Case Preparation (Incident Management) will conduct a daily search for incidents falling out of FRAIMs with the unique identifier as listed below by benefit type:

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

21. When referring an FRF, a PDF copy of the RTI data must be forwarded to the designated Case Preparation Group Inbox as evidence to support the investigation.

22. Case Preparation will link the PDF to the fraud referral.

03 Pension Credit Review cases

23. When undertaking reviews on Pension Credit cases, RTI data is used to inform these reviews. If whilst undertaking this review a discrepancy is identified, any resulting FRFs will be progressed using the normal investigative process.

24. These referrals will provide full details of the impact of any Assessed Income Period/Periodic Case Review, including details of the potential overpayment.

04 Prosecution action appropriate

25. Follow business as usual procedures. See [Administrative Penalties – Offences Committed](#)

26. For Prosecution cases MG11 Witness Statements will be provided by the originating business. Once it is established that a prosecution is appropriate, action to obtain witness statements must be taken at the earliest opportunity and appropriate BFs set to avoid unnecessary delays. A list of officers able to complete MG11 statements are listed below.

Pension Credit statements:

- [Redacted]

- [Redacted]

Carers Allowance statements:

- [Redacted]

Employment and Support Allowance statements

- [Redacted]

Job Seekers Allowance statements

- [Redacted]

- [Redacted]

05 Closure required

27. As benefit will have been corrected by Operations taking the RTI into account, no MVA will be appropriate in Heritage 'attempt' cases.

06 Administrative Penalties for Attempted Fraud

28. The Welfare Reform Act 2012 made provision for cases of attempted fraud to be offered a £350 Administrative Penalty as a deterrent. It is DWP Policy to pursue these attempted fraud cases, where there is no overpayment and offer a £350 Ad Pen as an appropriate response, with the option of prosecuting if the Ad Pen is refused.

29. The purpose of the Fraud Administration Penalty for attempted fraud is to punish the attempt to defraud and not the overpayment. This fits the prevent agenda of discouraging claimants to submit false claims in an attempt to defraud the department.

30. Two elements must be present when considering if the case can be treated as attempted fraud:

- a dishonest/false statement
- no overpayment has resulted.

31. The sequence of events is critical when considering if attempted fraud can be considered each case should be treated on its own merits.

32. Factors to consider:

- Has the claimant actually tried to commit dishonest or false representation offences? For example, how far have they gone to try and obtain the benefit relying on a dishonest or false representation?
- The claimant must have done more than a preparatory act, i.e. they have made a false/dishonest statement with the intention of attempting to commit fraud.
- Has the claimant actually submitted an application for the benefit?
- Do the errors/discrepancies in the form/validation process provide clear evidence of either false or dishonest representations? Questioning at the IUC should establish what was in the mind of the claimant when they made the claim.
- Evidence in an ‘attempted’ fraud case could include contradictory evidence regarding key dates, names, income/capital, incorrect employment dates etc.

07 Fraud Referral Criteria

Benefit Type	New Claims	Review/Alert /Change	Exception
Pension Credit	Minimum reduction in award of £40 pwk – to include unreported and under reported Income	£3,000 in value OR Incorrect from the outset with a de minimus of £5.00 a week.	Claimant terminally ill Claimant has a Corporate Appointee Earnings or pension have been correctly reported by the customer, or are already included within the assessment but the rate recorded on the system is incorrect Clear from outset that error will be entirely classed as official error
Carers Allowance	Earnings exceed £110 a week or the monthly equivalent of £476.70, after deductions of allowable expenses where applicable.	Earnings started during period of award and exceed the CA Earnings Limit for a minimum of 6 months	Claimant terminally ill Earnings have been correctly reported by the customer, or are already included within the assessment but the rate recorded on the system is incorrect

			Clear from the outset that the error will be entirely classed as official error
ESA	<p>Min reduction in award of £40 pwk – to include unreported and under reported Income</p> <p>(consider impact of permitted work before completing FRF)</p> <p>Treats undeclared and under-declared earnings/pensions equally but proposes a de minimus to manage capacity and proportionality.</p>	<p>£3,000 in value</p> <p>OR</p> <p>Incorrect from the outset -with a de minimus of £5 a week</p> <p>(Consider impact of permitted work before referring to CFCD)</p>	<p>Claimant is terminally ill</p> <p>Claimant has Corporate Appointee</p> <p>Earnings or pension correctly reported or already included within the assessment but the rate recorded on the system incorrect</p> <p>Clear from the outset that the error will be entirely classed as official error</p>
JSA	<p>All JSA new claims where the claimant has failed to report or underreported Income. This is in line with the current UC ‘attempt’ guidance as benefits are of a similar nature.</p> <p>.</p>	<p>BAU if fraud is found complete an FRF</p>	<p>Where earnings or pension have been correctly reported by the customer, or are already included within the assessment but the rate recorded on the system is incorrect.</p> <p>Where it is clear from the outset that the error will be entirely classed as official error</p>

Access to Work and Flexible Support Fund Investigations

00 Introduction

Legislation

1. Access to Work (AtW) and Flexible Support Fund (FSF) payments are made in accordance with The Employment and Training Act 1973 rather than Social Security legislation.

Access to Work

Criteria for Access to Work payments

2. Access to Work (AtW) assists disabled people who are in paid employment or with a job or a Work Trial by providing practical support with overcoming work related obstacles arising from disability.

3. AtW is an arrangement under the Employment and Training Act 1973 and replaced and expanded on several smaller schemes providing support to disabled people. It is not a benefit or allowance but is paid as a discretionary grant and is awarded for a period of three years.

Payments of Access to Work

4. Payments are usually paid in arrears following receipt of the relevant claim form and receipts covering the assistance being provided.

5. AtW can be paid to cover:

- the costs of employing an interpreter or communicator to accompany an applicant attending a job interview
- short or long term financial assistance to disabled people who incur additional costs in travelling to and from work or during working hours because of their disability
- the cost of providing a Support Worker (SW) in the workplace and can also be used to pay for a SW driver to help the applicant get to and from work
- the additional costs of modifications to an employer's or self-employed person's premises or equipment, to enable them to employ or retain a disabled employee
- Special Aids and Equipment (SAE) to help provide people with an in-work disability need with specialised aids and equipment for employment purposes.

6. AtW payments are authorised by specialist AtW advisers. If Counter Fraud Compliance Directorate (CFCD) investigators have enquiries relating to AtW payments they are investigating, they must contact the designated AtW adviser by email at the following address:

[Redacted]

7. More information on AtW can be found in the [Access To Work Guide \(link is external\)](#)

8. Investigations involving AtW payments may also include investigating cases of doubtful disability resulting in obtaining evidence of benefit fraud offences. Anyone involved in

investigating this type of offence therefore should ensure that they are conversant with the guidance contained in [Disability Living Allowance, Attendance Allowance and Carers' Allowance Investigations](#)

Flexible Support Fund

Purpose of Flexible Support Fund payments

9. Payments made under Flexible Support Fund (FSF) include:

- Payments to remove claimant's barriers to work (this replaced Adviser Discretion Fund payments)
- Travel Expenses for job interviews (this replaced Travel to interview scheme payments).

Authorisation of Flexible Support Funding payments

10. Unlike AtW payments that are authorised by AtW advisers, FSF payments are authorised by Personal Advisers in Jobcentres. Counter Fraud Compliance Directorate (CFCD) investigators must refer enquiries about FSF payments they are investigating to the adviser who authorised the payment.

Payments to remove claimants barriers to work

11. These payments are not an entitlement and are payments authorised by an adviser to remove barriers that would otherwise prevent the applicant from starting work and financial help cannot be obtained from any other source. The amount is usually up to £300.

12. If the amount applied for is more than £300 the Adviser will prepare a Business Case which must be approved by the Adviser Team Manager (ATM) or Business Manager (BM).with the required level of delegated financial authority/applications are made on form AD1JP.

13. If the adviser is satisfied payment will be made as follows:

- Invoice Payment Method, this is where the applicant is given an invoice payment form (AD2JP) to take to the supplier who invoices JCP electronically if the supplier is registered with the Retail Trade Framework (RTF) which is a contract set up by the Office of Government Commerce. If the supplier is not part of the RTF the invoice will be completed clerically by them before it is sent to the Jobcentre
- Retrospective Payment Method, this is where the adviser agrees the goods or services that can be obtained, the applicant purchases the goods and Jobcentre Plus reimburses them up to the agreed amount after they supply proof of purchase
- Advance Payment Method this is where the adviser agrees the goods or services that can be obtained and the applicant is paid in advance.

Criteria for Travel to Interview payments

14. These payments can be made for traveling expenses and up to two nights overnight accommodation of up to £50 per night to enable an applicant to attend an interview, for further information on the eligibility and application process, see Flexible Support Fund Guide - [Travel Expenses for Job Interviews \(link is external\)](#)

01 Investigating Access to Work and Flexible Support Fund fraud

Background

1. The points that need to be proved in Access to Work (AtW) and Flexible Support Fund (FSF) investigations are that the applicant:

- did not use the support that was claimed for
- over inflated the cost of support provided
- did not purchase the support claimed

- did not need the support awarded.
2. Before starting an AtW investigation it is important to establish what support was awarded to the applicant and why, a copy of the claim form AtW1 will also be required. This information may be provided with the referral, if not it will be necessary to obtain the AtW file from the AtW adviser. The adviser's contact details will be included in the referral.

Person responsible for committing the offence

3. AtW offences can be committed by an applicant, support worker, employer, service provider or other third party. For example: A Support Worker (SW) may falsely complete a form for someone who is blind. FSF offences would normally be made by the applicant.

Incorrect claim for travel expenses to job interview

4. The following are examples of this type of fraud, claims:

- made for taxi fares when the applicant uses public transport. This could mean that the applicant is not as disabled as they have claimed on the Disability Living Allowance claim form
- for taxi fares or public transport expenses when they drive themselves to work or receive lifts to or from work
- for incorrect amounts. This could include cases where false receipts are produced showing inflated amounts
- made when they are absent from work due to sickness, holidays, etcetera.

This list is not exhaustive.

5. The points to prove in this type of offence vary depending on the award but may include the following:

- false or counterfeit taxi receipts
- claimed taxi fares when the applicant was able to use public transport, this could indicate that the applicant is not as disabled as they have stated on their claim form or the taxi company is collusive
- the applicant was absent from work for the relevant period.

6. It will be necessary to obtain witness statements on the [PF11Spt1 \(link is external\)](#)/[PF11Spt2 \(link is external\)](#) to prove/disprove the alleged offence. The following are examples of possible witnesses:

- owner of a taxi company could state that the company has no record of journeys declared by the applicant as being undertaken or that the receipts produced by the applicant were false
- employer or other employees may be able to state that they have seen the applicant arriving or leaving work by public transport, driving themselves or receiving a lift
- person completing the employer declaration on the [DP226JP \(link is external\)](#) could confirm the authenticity of the signatures on the form and whether the applicant was absent at any time during the periods when the AtW traveling expenses were claimed.

7. At the Interview Under Caution (IUC) it is important to establish that the applicant knew what the AtW funding was for such as taxi fares expenses to and from work.

8. Apart from establishing that the applicant understood the conditions of entitlement, it should be noted that the award letter cannot be used to prove that they knew this as it is often generic and simply says that they have been awarded AtW for traveling expenses and not that they are specifically for taxi fares, etcetera.

9. All claim forms must be shown to the applicant during the IUC to confirm that the applicant completed and signed them.

10. In cases where the applicant has allegedly made a false claim for taxi fares establish why they were unable to use public transport. This could indicate Doubtful Disability.

False claims

Support Worker funding

11. These are cases where an applicant has claimed funding for a Support Worker (SW) and are completely false or the amount claimed is inflated.

12. The claims are made on the [DP222JP \(link is external\)](#) and signed by the employer or for self employed applicant, the SW, to confirm they have provided the support claimed by the applicant.

13. In these cases the identity of the SW must be established and a witness statement obtained from the SW to include:

- are the signatures authentic?
- did they provide support to the applicant?
- obtain precise details of the support provided to the applicant.

14. At the IUC show the applicant all the claim forms submitted and establish that the applicant knew exactly what the funding paid to them was for.

Adaptations to Premises and Equipment and Special Aids and Equipment

15. This type of case is where the applicant or employer produces forged or counterfeit receipts for work and claims reimbursement, or the person carrying out the work produces false receipts or claims inflated amounts.

16. These claims are made on the [DP224JP \(link is external\)](#) by the employer.

17. In these cases it will be necessary to obtain a witness statement from the company providing the service, if the company exists, to confirm what services if any they provided to the applicant.

18. If the company does not exist obtain evidence to this effect from Companies House.

19. At the IUC show all the claim forms and receipts in relation to the claim for Special Aids and Equipment (SAE) to the applicant or employer to establish they were completed signed and submitted by the applicant or employer and that they knew they were false.

20. If following the IUC with the applicant or employer it appears as though there may be an offence by the service provider, an IUC with that person must be undertaken. Receipts produced by the service provider must be shown during this interview.

21. If the applicant or employer says that they knew they were false but were completed by someone else, obtain the name of that person as the third party could have committed an aiding and abetting offence (art and part in Scotland).

22. Department for Work and Pensions (DWP) do not have contracts with companies that carry out modifications to premises or SAE therefore investigations against the service provider must be carried out by Counter Fraud Compliance Directorate (CFCD) Investigations rather than Risk Assurance Division (RAD).

Investigating Flexible Support Fund offences

Payments to remove barriers to work

23. The cases referred to Counter Fraud Compliance Directorate (CFCD) Investigations will be those where invoices or receipts are suspected to be false, forged or manipulated or where false statements have been made to secure Flexible Support Fund (FSF) payments. These may be where the:

- applicant declares they have lost the AD2JP, receives a duplicate award and subsequently exchanges the original AD2JP for goods
- applicant falsely declares they have lost a cash award
- signature on the AD2JP, doesn't match the signature on the AD1JP
- applicant amends the amount awarded on the AD2JP.

This list is not exhaustive.

Travel Expenses for job interview offences

24. Examples of these offences include:

- false information on the application form (TIS1JP) such as the name of the employer is false
 - the applicant claims expenses to attend an interview that was conducted by telephone.
- This list is not exhaustive.

Closing the Interview Under Caution

25. At the end of the Interview Under Caution (IUC) if the investigator is satisfied there is sufficient evidence to secure a prosecution, unless the interview is to be suspended and re-convened at a later date, the alleged offence must be put to the applicant who will then be handed the following documents:

- [CI11 \(link is external\)](#)/[CI11W \(link is external\)](#) outlining the offence
- [CI12 \(link is external\)](#)/[CI12W \(link is external\)](#) explaining how to obtain a copy of the tape
- [CI16 \(link is external\)](#)/[CI16W \(link is external\)](#)/[CI16 \(AtW\) \(link is external\)](#) notice explaining what happens next

02 Access to Work and Flexible Support Fund Decision Making

Disallowing further payments

1. If, following the Interview Under Caution (IUC), an offence has been identified and it appears that Access to Work (AtW) payments are continuing, it may be necessary to request that further payments are ceased. In these circumstances it will be necessary to ask the designated AtW advisor to reassess the award.

Overpayment referral process

Access to Work

2. If following the Interview Under Caution (IUC) there is sufficient information to suggest that an overpayment has occurred, the evidence file must be sent with a covering minute to the Access to Work (AtW) adviser who made the original decision. If the investigator is unable to identify the adviser they should contact the AtW Single Point Of Contact (SPOC) by:

telephone: **[Redacted]**

email: **[Redacted]**

3. The SPOC will arrange for a decision on the revised award of future payments or overpayment and issue the relevant letter to the claimant. This letter will inform the applicant of the overpayment and that any payments made by them in relation to the amount overpaid will be received without prejudice to any action that may be taken.

4. Once a revised award decision has been made, the evidence file will be returned to the Investigator with copies of the decision and letter.

Flexible Support Fund

5. Requests for overpayment decisions for Flexible Support Fund (FSF) payments must be sent to the adviser who authorised the payment with sufficient information, such as a copy of the IUC transcript or summary to enable a decision to be made.

6. The adviser will arrange for the overpayment decision and issue of the letter to the applicant although this may be carried out by a different officer.

03 Fraud penalties and Case Closure action

Fraud penalties

Legislation

1. It is not possible to prosecute offences against Access to Work (AtW) and Flexible Support Fund (FSF) under the Social Security Administration Act 1992 as payments are not made in accordance with Social Security legislation.
2. In England and Wales, the offences are likely be under the Fraud Act 2006, Section 2 where the declaration is false or Section 3 if it is a failure a disclose information.
3. In Scotland, the offence will be under Common Law as the Fraud Act does not apply here.

Cautions

4. A Caution can be offered providing that the case is evidentially sound and meets the criteria, for more information, see [Cautions](#).
5. Cautions will no longer be offered on cases where the offence is committed wholly on or after 1 April 2012, or where the period of offending spans this date.

Prosecutions

6. If an offence has been established and meets the Department's [Prosecution Policy](#), prosecution must be considered.
7. Prosecution file preparation must be undertaken in line with current Counter Fraud Compliance Directorate (CFCD) Investigations guidance, see [Prosecution File Preparation](#).
8. Prior to the court hearing it will be necessary to obtain details of how much of the overpayment has been repaid. The Accounts Receivables Team at **[Redacted]**

are responsible for the recovery of Access to Work (AtW) overpayments and can be contacted by:

email: **[Redacted]** telephone: **[Redacted]**.

9. Details of FSF repayments should be obtained from the adviser responsible for authorisation of the original payment.
10. AtW, and FSF overpayments cannot be recovered in the same way as benefit overpayments such as recovery by deduction from benefits.
11. In England and Wales, the CFCD Team Leader / Higher Investigation Leader should consider applying for a compensation order if it appears that the applicant has the means to pay this, see [Compensation Orders](#).
12. In Scotland, compensation cannot be requested, but the Sheriff may award it.

Administrative Penalties

13. As AtW and FSF payments are not benefits covered by the Social Security Administrative Act 1992 an Administrative Penalty cannot be offered as an alternative to prosecution.

Loss of Benefit provision

14. Loss of Benefit action cannot be taken on AtW, and FSF offences as these are not covered by Social Security legislation.
15. Loss of Benefit warning letters **must not** be issued following a conviction or acceptance of a Caution for AtW, or FSF offences.

Recording results and closure

16. The result of an AtW, and FSF investigations are recorded on the case for each individual in the same way as any other investigation.
17. The case for the individual applicant will be closed, but the Master File must not be closed so that future AtW and FSF referrals can be linked to it. Any information required can be accessed via the linked Master File.

Benefit Fraud with Alleged DWP Staff Involvement

00 Introduction

Introduction

1. Internal Audit and Investigations (IA&I) provides an independent and professional investigation and advice service to the Department's business areas. IA&I work closely with managers to investigate suspicions of:

- employee fraud and abuse - this enables managers to consider disciplinary and other remedial action where appropriate
 - fraud and abuse by contractors and other providers/suppliers of services to the Department. This includes fraud against the European Social Fund projects that are co-financed by Jobcentre Plus.
2. Investigations are carried out to agreed departmental standards and within existing legal and policy frameworks. IA&I report their findings to departmental managers.
3. When it is suspected that criminal offences may have been committed, IA&I refer cases to the police, Counter Fraud Compliance Directorate (CFCD), Crown Prosecution Service (CPS), or other statutory authorities.

01 Referral process

Referral process to Counter Fraud and Investigation (formerly Internal Investigations)

The Department for Work and Pensions (DWP) is committed to preventing, detecting and deterring all abuse of the benefit system, including the threat from the small number of DWP employees, contractors, providers or consultants who commit fraud or workplace abuse.

A Person suspecting fraud abuse by a DWP member of staff (MOS), including aiding and abetting and collusion, must make a referral on the [Fraud Referral Form \(link is external\)](#) (FRF) and select the tick box **Is a DWP member of staff implicated in this benefit fraud?** on the **Submitter details** screen.

This includes:

- the claimant who is committing the benefit fraud is a DWP MOS
- a benefit claimant has been assisted by a DWP MOS to commit benefit fraud

If the referral manager identifies possible MOS involvement but the box **Is a DWP member of staff implicated in the benefit Fraud?** has not been ticked, the incident must be referred to the CF&I FRAIMS In-box **[Redacted]**.

Persons suspecting a DWP MOS of a breach in the Department's Standards of Behaviour (SoB) or policy or persons suspecting fraudulent abuse by contractors, providers and consultants must make a referral to:

[Redacted]

Or, use the Counter Fraud and Investigation (CF&I) referral form found on their intranet site: [Counter Fraud and Investigation Home Page \(link is external\)](#) (CF&I) independently investigate allegations of fraud against DWP contractors, providers and consultants. When appropriate, suitable cases are considered for prosecution by the Crown Prosecution Service (CPS) or the Procurator Fiscal in Scotland.

All referral enquiries must be routed through CF&I RIT on **[Redacted]**.

Allegations of benefit fraud implicating a Department for Work and Pensions member of staff

Cases identifying a MOS, due to their nature, are likely to attract interest, particularly if they result in a criminal prosecution. They therefore remain highly sensitive and strictly confidential during the course of the official investigation.

All allegations of benefit fraud which are identified on the FRF as involving a DWP member of staff will be routed directly to the CF&I Inbox, **[Redacted]** by Fraud Referral and Intervention Management System (FRAIMS).

CF&I will check the FRF, identify the MOS where possible, and note CF&I interest on FRAIMS.

CF&I will confirm whether the MOS still works for the DWP and determine whether there is any immediate evidence of a breach of Department's SoB policy.

Once CF&I have carried out their check of identifying the MOS and whether they are still employed by the DWP, all incidents, whether a MOS has been identified or not will be noted of with CF&I action and submitted to Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence using the FIS(I) Sensitive In-box, **[Redacted]** for further action or closure.

If a MOS has been identified, CF&I will note FRAIMS of their interest in an activity and refer the incident to the Single Point of Contact (SPOC) in CFCD Criminal Intelligence using the FIS(I) Sensitive In-box **[Redaction]**.

If there is an indication that the MOS has breached SoB, CF&I will also note their joint interest to the investigation and the name of the CF&I Investigator on the FRAIMS activity.

If benefit is in payment, but there is no indication that the MOS has breached SoB, or the MOS is not named in the allegation, CF&I will note their interest and progress for fraud investigation.

On receipt of the incident the CFCD Criminal Intelligence SPOC will carry out customer tracing action on Customer Information System (CIS) and confirm whether any benefit is in payment. The Criminal Intelligence SPOC will then promote the incident to a case if appropriate, re-create the CF&I activity and forward to the appropriate CFCD Nominated Officer for investigation.

If the incident relates to Access to Work submit it to the CF&I inbox [Redacted] for to CF&I to investigate.

Cases submitted to Counter Fraud and Investigation in error

Incidents that have been submitted to the CF&I in-box in error, usually because the box 'Is this fraud being committed or assisted by a member of staff?' on the FRF has been ticked in error, must be re-submitted to the National Incident Management In-box [Redacted] after the tick has been removed. The handover must be shown on FRAIMS, see [FRAIMS guidance - Handover of an Incident](#).

Cases involving Disability Living Allowance, Personal Independence Payment, Attendance Allowance or Carer's Allowance

If a potential internal fraud case is received where there is a possible impact on Disability Living Allowance (DLA), Personal Independence Payment (PIP), Attendance Allowance (AA) or Carer's Allowance (CA), all FRAIMS activities must be sent to the appropriate Decision Making Unit (DMU) for the attention of the Internal Fraud Manager.

If an evidence file is forwarded to a DMU mark it for the attention of the DLA Internal Fraud Manager or the CA Internal Fraud Manager and address activities to these officers who must be associated to the case.

Types of fraud that may be committed by Contractors, Providers and Consultants

The following is a list of examples of different types of fraud that may be committed by contractors and consultants. It is not exhaustive:

[Redacted]

02 Member of staff identified during the investigation

Member of staff identified during the investigation

1. If a Department for Work and Pensions (DWP) member of staff is identified as having a possible involvement in a fraud during the course of an investigation, the Investigator must [associate](#) the Counter Fraud Compliance Directorate Nominated Officer to the FRAIMS case and create an activity advising them of the information established and request consideration of the facts.
2. The Nominated Officer will retain communication with the Investigator updating them at all relevant stages.
3. On receipt of the case the Nominated Officer associates Counter Fraud Compliance Directorate Criminal Intelligence Single point of contact (SPOC) and recreates, and sends, the activity to Inbox [Redacted].
4. The Single Point of Contact makes this case sensitive on FRAIMS, associates Internal Audit and Investigations (IA&I) and sends an activity to the IA&I Inbox [Redacted] requesting consideration of the facts.
5. IA&I will confirm whether the member of staff still works for the department and determines whether there is any immediate evidence of a breach of department's Standards of Behaviour (SoB) policy.

6. Once IA&I have carried out their checks they return the case to the Criminal Intelligence SPOC Sensitive In-box **[Redacted]** to route accordingly and sends an activity which will:

- note their joint interest to the investigation and the name of the IA&I Investigator on the FRAIMS activity if there is an indication that the member of staff has breached SoB,
- note their interest and progress for a Counter Fraud Compliance Directorate investigation if benefit is in payment, but there is no indication that the member of staff has breached SoB.

7. On receipt the Criminal Intelligence SPOC examines the information received from IA&I and takes the following action:

Sensitive access appropriate

8. If the case should progress as an internal benefit fraud investigation, an activity will be created to advise the Nominated Officer to transfer the investigation to an Investigator with permanent sensitive access and continue action or provide temporary sensitive access to the current Investigator by completing the [FRAIMSAC3IntF \(link is external\)](#).

Sensitive access not appropriate

9. If sensitive status is not required, the Nominated Officer removes the sensitive status and creates an activity to the case owner to progress the case.

03 Case accepted

Nominated Officers role within Counter Fraud & Compliance Directorate

1. Nominated Officers involved within the process are allocated permanent sensitive access for case progression within their Group hierarchy. This access can be amended on change of officer / duties by completion and authorisation of the [FRAIMSAC3IntF \(link is external\)](#).

2. The Nominated Officer assigns the case to a Team Leader / Higher Investigations Leader to allocate for investigation or direct to the Investigator. Wherever possible, Counter Fraud Compliance Directorate (CFCD) should appoint a select number of investigators within their team to investigate cases involving a member of staff and allocate permanent sensitive access via the [FRAIMSAC3IntF](#) for the period of fulfilling this role.

3. This will allow them to gain a level of expertise in these cases and build relationships with Internal Audit and Investigations (IA&I).

4. Officers who do not hold permanent sensitive access, but are assigned responsibility for a sensitive case can obtain temporary sensitive access for the period of their involvement by completion and authorisation, of the [FRAIMSAC3IntF](#). This must be completed by the Nominated Officer where practicable.

5. As the case progresses additional officers such as those in the Central Prosecution Team (CPT) / Digital Case Management Unit (DCMU) and analysts responsible for the progression of the case may require temporary sensitive access.

Investigators action

Investigation and case closure

6. A case retains the status as 'Sensitive' within FRAIMS for the duration of the investigation / closure and is not visible to a normal FRAIMS user.

7. Due to the sensitivity, these cases **must not** be re-assigned to Compliance for progression if a fraud penalty is not appropriate. Counter Fraud Compliance Directorate (CFCD) retains responsibility of the case until conclusion of the allegation

8. Once a case is closed on FRAIMS, Investigators with temporary sensitive access to FRAIMS must arrange removal of this access immediately if it is not required for other ongoing sensitive investigations using the [FRAIMSAC3IntF \(link is external\)](#)

Engagement with Financial Investigation Unit

9. In all cases where the investigation involves a member of staff the Investigator must contact the Financial Investigation Unit (FIU) Higher Investigations Leader at the earliest opportunity prior to the Interview Under Caution (IUC) to discuss potential FIU action. The £10000 threshold for financial investigations does not apply when a member of staff is involved.

10. For information regarding making the referral to FIU, see [FRAIMS guidance - Referring a case for Financial Investigation](#).

Requests for Information

11. All Requests for Information (RFIs) and pre-RFI Credit Reference Agency (CRA) checks should be requested through the Criminal Intelligence Single Point Of Contact (SPOC), by inputting inbox number **[Redacted]** on the automatically generated activity and the Coverage Team box. Additionally the appropriate pro-forma must be completed for all pre-RFI CRA checks and emailed to the Criminal Intelligence SPOC.

12. Regulation of Investigatory Powers Act (RIPA) authorisations, cancellations, etcetera, should be routed to the Authorising Officer who has sensitive access within their area.

13. In joint cases, where Internal Audit and Investigations (IA&I) or the Human Resources Business Partner (HRBP) are concerned that the Counter Fraud Compliance Directorate (CFCD) investigation isn't progressing, they will raise their concerns firstly via the appropriate National Investigations Leader and if not resolved, via the Operational Management and Assurance Team (OMAT) Grade 7 manager.

14. When the case is concluded the Investigator should remove their sensitive access if it is not required for other sensitive investigations using the FRAIMSAC3IntF and close the case as appropriate.

Interviews Under Caution

15. Interviews Under Caution (IUCs) with a Department for Work and Pensions (DWP) member of staff or a third party linked to a DWP member of staff should be conducted in the same way as any other IUC.

16. There is no requirement to tell the person being interviewed that the interview may be used for disciplinary purposes, however if the claimant asks during the IUC whether it will be used in the disciplinary process, the investigator should answer the question appropriately.

17. Where both Internal Audit and Investigations (IA&I) and Counter Fraud Compliance Directorate (CFCD) are investigating a criminal case, IA&I will attend the IUC, however questions should be limited to the criminal offences under investigation. See [Joint Investigations by Internal Audit and Investigations and Fraud and Error Service](#).

18. IA&I must not ask the interviewee questions in relation to the internal disciplinary investigation at the IUC.

19. IA&I will conduct a separate interview with the member of staff where there is a potential breach in Standards of Behaviour.

Referrals to Decision Makers

20. Referrals to Decision Makers in **[Redacted]** and **[Redacted]** should be made direct to Nominated Sensitive Case officers who have permanent sensitive access.

Loss of Benefit

21. If, at the conclusion of the investigation, the claimant accepts a Caution or Administrative Penalty or is convicted of benefit fraud, Loss Of Benefit action must be considered. For more information, see [Loss Of Benefit Provision](#)

Sensitive status removed by IA&I

22. During the course of the investigation IA&I may conclude their investigation and/or may indicate the case is no longer regarded as sensitive for the purpose of a benefit fraud investigation. This may be due to establishing:

- there is no link between the claimant and the member of staff
 - the member of staff under investigation has left the Department.
23. In this instance the benefit fraud investigation can be progressed through FRAIMS in the same way as all other investigations.

24. To remove the sensitive status within FRAIMS and controls within this process, the Investigator completes an activity to the CFCD Single Point Of Contact (SPOC) detailing the reason for this request and attaching any correspondence which supports this request, see [FRAIMS guidance - Case investigation and closure](#).

04 Joint investigations by Internal Audit and Investigations and Fraud and Error Service

Joint investigations

1. If the referral is accepted for investigation by Internal Audit and Investigations (IA&I) as there is evidence that the Department for Work and Pensions (DWP) Standards of Behaviour (SoB) may have been breached, an IA&I Investigator is appointed and the referral will be forwarded to the National Counter Fraud Compliance Directorate (CFCD) Single Point Of Contact (SPOC).
2. The referral will include details of the IA&I Investigator and other supporting information to assist the CFCD Investigator.
3. Once a case has been assigned to the Investigator they must immediately inform the IA&I Investigator of their involvement and liaise throughout the investigation until closure.
4. It is expected that regular case conferences will take place with IA&I and Human Resources (HR), to ensure all action is taken as soon as possible and in particular referral to a HR Decision Maker by IA&I as soon as sufficient facts/information are available to support a disciplinary decision.
5. The evidential test for the HR Decision Maker is balance of probabilities so referral to a HR Decision Maker does not have to wait until the fraud investigation is complete.
6. CFCD Investigators must not attempt to gain information additional to that required for the CFCD investigation in order to assist IA&I. This includes requesting information on a Request For Information (RFI) form or in the questioning at the Interview Under Caution (IUC).

05 Obtaining wage and personal details

Enquiries

Send all wage, personnel enquiries and Subject Access Requests (SAR) involving a current or former member of staff to the SSCL DWP Data Protection Team.

Initial enquiries can be made by email by an authorised officer and sent direct to the SSCL DWP Data Protection Team shared email inbox: **[Redacted]**

The email must include:

- the full name and other personal information of the employee to assist identification, such as:
 - payroll number

- National Insurance number (NINO))
- date of birth
- the legislation under which the request has been made for example; Section 109 of the Social Security Administration Act 1992
- Section 29(3) of the Data Protection Act 2018 paragraph 2(1) of Schedule 2
- details of the information required.

Any queries relating to EQ1 forms must be sent to **[Redacted]**

Send EQ1 statement of earnings by TNT documented service to: **[Redacted]** Employee Service Centre.

Where an urgent enquiry requires an immediate response, for example; where the suspected member of staff or former member of staff is held in custody, a direct approach can be made to SSCL DWP Data Protection Team by phone on: **[Redacted]** This number is available during office hours only.

Note: SSCL DWP Data Protection Team cannot disclose information over the phone. Urgent enquiries require authorisation by a senior manager, not below the grade of Senior Investigations Leader of the team making the approach.

Do not use this route to circumvent the normal process of obtaining wage or personnel details through the shared email box.

Witness Statements from Employee Services Data Protection Team

SSCL DWP Data Protection Team will provide witness statements in cases suitable for prosecution. The Investigator must draft the statement. Requests for witness statements relating to information provided by the Data Protection Team must be sent to **[Redacted]**.

The SSCL DWP Data Protection Team officer will add to the statement details of their job role and other relevant information such as length of service and send the signed statement back to the investigator by TNT documented service.

06 Disciplinary and criminal process

Disciplinary and criminal process

1. There are different legal requirements between criminal and disciplinary investigations. Evidence in a criminal investigation must prove the case beyond reasonable doubt whereas the disciplinary investigation needs to prove the case to the level of balance of probabilities.
2. Counter Fraud Compliance Directorate (CFCD) and Internal Audit and Investigations (IA&I) teams can share relevant information freely in joint investigations for example, where both IA&I and CFCD are undertaking a criminal investigation regarding computer misuse and benefit fraud. A joint Interview Under Caution (IUC) is appropriate and all evidence is available to both parties.
3. IA&I will share all information from Department for Work and Pensions (DWP) systems already gathered by them during the course of their investigation including Human Resources (HR)/employment details.
4. Evidence required for criminal proceeding for CFCD should be obtained by the Investigator.
5. However if the IA&I is for disciplinary purposes only as there is no criminal offence to be investigated, the original source evidence obtained by CFCD as part of the criminal investigation process cannot be disclosed to IA&I.
6. A summary statement of the CFCD investigation including reference to the evidence should be produced by the Investigator for use in the disciplinary process for example, the summary of surveillance findings.

7. Witness statements gathered during the criminal investigation and copies of any Interview Under Caution conducted can also be disclosed to IA&I and used as part of the disciplinary process

Capital Investigations

00 Introduction

Introduction

1. This section deals with any capital that the claimant has not disclosed to the Department for Work and Pensions (DWP) for the purposes of assessing benefit entitlement.

2. The dictionary definition of 'capital' is 'money' and may include money received from:

- investments
- property
- shares
- interest paid on bank/building society accounts
- occupational pensions and/or
- any other income excluding paid employment.

3. For the purposes of proceedings, the definition of 'capital' will usually be confined to the explanation given to the term on the benefit claim form/accompanying documentation.

4. There is a possibility of fraud if a claimant, or partner, in receipt of an income-based benefit fails to declare to the DWP/Local Authority that they, or any of their dependents, have any of the following:

- all non-exempted capital, see [Government funded trusts and funds](#)
- regular income as a result of interest received from savings
- shares
- pensions
- property
- land.

This list is not exhaustive.

01 Capital and other income and DWP benefits

Jobcentre Plus benefit

1. Only the following benefits are subject to capital rules:

- Income Support (IS),
- Employment and Support Allowance (Income Related) (ESA(IR))
- Jobseekers Allowance (Income Based) (JSA(IB))
- Housing Benefit (HB)
- Council Tax Benefit (CTB) (prior to 1 April 2013).

2. It is therefore important that all records are checked to establish the weekly rate of any other benefits in payment.

3. In cases where Income Support is payable with a contributory benefit, for example, Incapacity Benefit, the amount of possible overpayment will be reduced, since Incapacity Benefit is not subject to capital rules.

Pension Credit

4. Particular care should be taken in State Pension Credit cases as the treatment of capital is different from the rules for benefits paid by Jobcentre Plus.

5. Information about the Pension Credit claim is held on the Pension Transformation Programme Customer Account Manager (PTP CAM) system.

6. Each site has a nominated user who can access and view the information held on PTP CAM. Record the request to view and information obtained on the FRAIMS case.

7. For details of the treatment of capital for State Pension Credit, see [Decision Makers Guide - Chapter 84 - Deemed weekly income from capital \(link is external\)](#)

Specific types of capital or other income

Occupational pension/personal pensions

8. Occupational pensions and personal pensions can be taken as a lump sum and/or as a regular income. The lump sum element constitutes capital and where appropriate should be investigated.

9. All requests for details from occupational pension companies are to be made by an Authorised Officer using Social Security Administration Act (SSAA) 1992 Section 109B(2) powers.

10. For more information, see [Applying the Secretary of State's Authorisations](#).

Special Occupations

11. Some occupations are known as 'Special Occupations'. These are:

- auxiliary coastguards for coastal rescue activities
- in Scotland, a part-time fire-fighter employed by a fire and rescue authority or a joint fire and rescue board under specified legislation
- in England, a part-time fire-fighter employed by a fire and rescue authority
- part-time work crewing or launching a lifeboat
- members of the territorial or reserve forces.

12. People in Special Occupations may receive a bounty payment for their services. If a bounty is paid at intervals of at least one year, it should be treated as capital. If it is paid more often than once a year, for example quarterly, it should be treated as earnings. The period for which the bounty is payable is of no relevance.

13. For specific guidance, see [Decision Makers Guide – Chapter 26 Employed Earners - Special Occupations \(link is external\)](#); paragraph 26085 et seq.

Property

14. The following information may be required for a Decision Maker/Assessment Officer to reassess benefit entitlement:

- the amount of any outstanding mortgages and/or loans on that property
- if the property is up for sale what steps are being taken to sell; or if the claimant is proposing to sell the property, contact the Financial Investigation Unit (FIU) to ensure that assets are not dissipated
- if the property was previously the marital home and if the partner and/or children remain in residence
- evidence of any tenancy agreements and income received (rent) from the property, for example Housing Benefit (HB) paid direct to the landlord.

15. Where the Investigator is uncertain of how ownership of a property can affect benefit entitlement they should seek further advice from the Decision Maker to establish what evidence of ownership they require.

16. Where appropriate, Investigators should obtain copies of Land Registry documents or make requests for property searches via the Counter Fraud Compliance Directorate Criminal Intelligence Operational Intelligence Unit (OIU) by completing a Request for Information (RFI). Requests must be [necessary, reasonable and proportionate](#) in relation to the required information.

17. For more information about completion of the RFI, see [Requests for Intelligence Gathering](#).

18. For more information on obtaining property valuations, see [Obtaining Property Valuations](#).

Fixed term investments

19. Fixed term investments or capital that is not immediately available to an investor is normally in the form of investment bonds. Bonds are either capital or income bonds. The Investigators must firstly establish the type of bond the claimant has. There are various types and are treated differently. [The Valuation of Capital Assets Handbook \(link is external\)](#) gives guidance on how these bonds are treated.

20. There are three types of fixed term investment bonds which are:

- one that can be surrendered. Even if early surrender would result in a penalty, the bond will be treated as capital to be taken into account
- one that that can be assigned, that is, sold before it matures. This type of bond will be treated as capital. Some of these have a surrender value when assigned
- a bond that can neither be surrendered nor sold before it matures has no capital value therefore would not effect entitlement to benefit.

For further information see the [Valuation of Capital Assets Handbook \(link is external\)](#).

21. If the bond includes a life assurance element the value of the bond will be disregarded.

22. If a claimant declares that they have a fixed term bond or other capital that is not available to them prior to the maturity date the Investigator must take the following steps:

- obtain confirmation from the claimant whether this can be surrendered early or assigned, see appendices 4 and 5 of the Valuation of Capital Assets Handbook
- if it can be surrendered and it is an Income Bond the company needs to be contacted. See Appendix 4 Valuation of Income Bonds in the Valuation of Capital Assets Handbook
- if it is a capital bond that can only be assigned, a specialist valuation needs to be obtained. For further information see Appendix 4 Valuation of Capital Bonds in the Valuation of Capital Assets Handbook.

23. If the claimant does not have the necessary documentation they must be asked to obtain written confirmation from the bank or investment company to confirm whether any or all of the capital can be made available to them within 10 working days of the interview. This can be extended if the bank or investment company requires more time.

24. If the claimant reinvests the value of a bond on maturity into an investment that cannot be surrendered, a Decision Maker can consider whether he has deliberately deprived himself of this in order to remain entitled to benefit, in which case the capital value would be taken into account.

25. It is important that the Investigator establishes from the claimant why the capital has been re-invested in this way instead of using it for their living expenses.

26. The Investigator must follow the guidance laid down in the [Decision Makers Guide \(link is external\)](#) – Facts which the DM should consider, paragraphs 29830 – 29847 to enable the DM to make the correct decision.

Wills and details of estates

27. It may be necessary for the investigator to obtain information from the Probate Office (London Probate Registry) when the allegation is that the claimant has failed to declare money or property bequeathed in a will. The process for obtaining this information is in the Commercial Directorate (Buy It) site in [Policy on the use of Government Procurement Card \(GPC\) for HM Court & Tribunal Service \(HMCTS\) Fees \(link is external\)](#) (PA1S – Application for a probate search (copies of grants and wills)).

02 Investigations

Action on receipt of a new case

1. On receipt of a new case alleging that the claimant, or their dependants, has undisclosed capital or other income, the Investigator must review all appropriate documentation to confirm the validity of the allegation.

Checking existing records

2. The Investigator must try to obtain original claim forms, and any subsequent reviews, to establish if the claimant has at any time declared capital, or other change of circumstances.

3. Make checks to ensure that a Decision Maker has not already made a decision regarding this capital in the past. Record details of the enquiries made on Fraud Referral and Intervention Management System (FRAIMS).

4. The Investigator must consider checking any other claims made to ensure that any capital identified does not also cover any previous claims made to benefit by the claimant.

5. Consider if further information can be obtained by cross referencing with other data held by Department for Work and Pensions (DWP) and/or Local Authority (LA), such as other benefit claims, council tax records and right to buy records

6. If capital or property is identified, and the Financial Investigation Unit (FIU) referral criteria is likely to be met, the Investigator may wish to discuss any actions to be taken with the FIU **[Redacted]**.

For more information, see [Financial Investigations](#).

Obtaining information

. The Investigator has the option to decide whether to:

- approach the claimant directly for authorisation to request information from third parties relevant to the allegation or query, for example;
 - bank
 - building society
- request information by completing a Request For Information (RFI) and sending it to the Criminal Intelligence Operational Intelligence Unit (OIU) for further enquiries to be carried out by the Authorised Officer

8. For more information about Authorised Officers and completion of the RFI, see [Requests for Intelligence Gathering](#).

9. If it is felt that such action will not jeopardise the investigation the decision may be taken to approach the claimant first, the Investigator will interview the claimant under caution and ask them to obtain and provide the required information.

10. The claimant should be given 10 working days in which to produce the requested documents.

11. The investigator must consider referring the case to the Operational Intelligence Unit (OIU) but completing the RFI where the claimant:

- is unable to provide the required information
- fails to provide the required information
- refuses to provide the required information

12. It is not appropriate to seek the claimant's authorisation on the A42 in criminal cases.

13. Depending on the information received, the Investigator may also consider requesting the Decision Maker or Assessment Officer to suspend benefit, see [Suspension of Benefits](#).

14. The respective Department for Work and Pensions (DWP) and Local Authority (LA) Authorised Officers will have to consider whether their requests for the information is reasonable and proportionate and is in accordance with the Code of Practice on Obtaining Information.

15. It is therefore important for the Investigator to explain the reasons why:

- the request has been made and
- other avenues of enquiry are not appropriate or available

16. If the Authorised Officer agrees to process, the request enquiries will be made up of:

- Other Government Departments (OGDs)
- financial institutions and credit reference agencies, to identify any non exempted capital or shares held or income received by the claimant, partner or dependant

Benefit not in payment during period of match

17. Consider the amount of capital and the period between the match and claim to benefit prior to obtaining bank statements. Where no overlap is apparent fully document on Fraud Referral and Intervention Management System (FRAIMS) as to why a discrepancy at the time of the claim is suspected.

Social Security Administration Act 1992

18. Social Security Administration Act (SSAA) Section 109B(2A) allows an Authorised Officer to obtain information from organisations covered in Chapter 11 of the SSFA 2001, including banks and building societies, where there are reasonable grounds to suspect fraud against the benefit system. For example, information can be requested where it is suspected that a claimant had not disclosed capital held in a bank account.

19. It is not appropriate to make enquiries of investment companies other than those that are prescribed under Section 109B(2A) of the Social Security Fraud (SSFA) Act.

20. The use of SSFA powers is a 'power of last resort' and consider other avenues to obtain information by less intrusive means wherever possible.

General Matching Service referrals

21. Data is extracted from Department for Work and Pension systems at regular intervals and is then matched against the most up to date **[Redacted]** savings data held by Database & Matching Service.

22. General Matching Service (GMS) referrals are automatically downloaded onto Fraud Referral and Intervention Management System (FRAIMS).

23. Before approaching the claimant to interview them regarding the alleged undeclared capital, further intelligence may have to be undertaken. Case papers must be checked and consideration given to:

- when the data was matched
- whether the claimant was in receipt of benefit
- whether the claimant has received capital from any [Government funded Trusts and Funds](#) which may be exempt
- whether the claimant has previously declared the capital
- [Special Occupations](#)

24. [Redacted]

Evidence requirements

25. It may be necessary to produce documents received from third party information providers in court.

26. Specific evidential requirements for particular capital types are:

Property

- office copy
- valuation and
- amount of mortgage outstanding

Shares

- copy share certificates and
- approximate value of shares

Savings

- bank statements or letter from banks confirming amounts held, or
- pass books

Occupation Pension

- pension provider confirmation in writing of amount paid annually, amounts and dates intervals of payments

The list is not exhaustive.

03 Government funded Trusts and Funds

Government funded Trusts and Funds

1. Payments received from Government funded Trusts and Funds do not have to be declared and may be disregarded for benefit purposes. This section relates to payments made by the following Trusts/Funds:

- the Macfarlane Trusts
- the Fund
- the Eileen Trust
- the Skipton Fund
- the London Bombings Relief Charitable Fund
- MFET Limited
- Caxton Foundation.

2. See [Decision Makers Guide \(DMG\) Volume 5 Chapter 29 \(link is external\)](#), paragraphs 29418 et seq, for further information regarding payments from these funds and disregards.

3. Payments from these organisations may be identifiable at the evidence gathering stage of an investigation. However, if the source of the capital/payment is not identifiable, the claimant may be invited to attend an Interview Under Caution (IUC). See [Arranging appointments](#).

04 Obtaining property valuations

England and Wales

1. In England and Wales, Land Registry documents relating to the ownership of property and leases lie within the public domain.

2. Further information, **[Redacted]**

3. The forms most commonly used for obtaining information from Land Registry are:

Form	An application for
SIM	Application for an official search of the index map
OC1	Application for official copies of register / plan or certificate in Form CI
OC2	Application for official copies of documents only
CIT	Application in connection with court proceedings, insolvency and tax liability
HC1	Application for copies of historical edition(s) of the register / title plan held in electronic form
[Redacted]	[Redacted]
313	Who owns that property?

4. Forms SIM, OC1, OC2, CIT, HC1, PN1 and 313 respectively can be obtained via the [Land Registry's website \(link is external\)](#).

5. If a statement is required about the entry provided by an officer of the Land Registry, the local Land Registry Office should be contacted for advice.

6. Any documents/copies requested that incur a fee must be met locally, inline with Departmental billing arrangements.

Scotland

7. In Scotland, the ownership of property is recorded on the [Registers of Scotland \(link is external\)](#), historical data about properties may also be available on the [Register of Sasines \(link is external\)](#)

8. Registers of Scotland, the Government Agency responsible for Scotland's land and property registers, holds details of the mortgage provider, if available, and any secured loans/re-mortgages on the property.

9. The 'Quick Copy' search documents obtained by the Counter Fraud Compliance Directorate (CFCD) Criminal Intelligence Operational Intelligence Unit (OIU) via the Registers of Scotland online service (Registers Direct) hold no evidential status.

10. In prosecution cases it is essential that a certified 'Office Copy' (search sheet) be obtained.

11. The Office Copy provides information regarding the;

- current owner
- date the property was purchased/acquired
- purchase price, on documents issued after April 2001 and
- details of the mortgage provider, if held.

12. For details of outstanding mortgages and charges enquiries will need to be made of the relevant bank/building society.

13. The Office Copy is normally certified with the words:

'This Office Copy has been issued in terms of section 6(5) of the Land Registration (Scotland) Act 1979, which provides that it shall be accepted for all purposes as sufficient evidence of the contents of the original.'

Therefore, when used as evidence there is no requirement for an expert witness.

Valuation of a property

14. The [Valuation of Capital Assets Handbook \(link is external\)](#) explains procedures for asset valuation and provides details of the contract with the Valuation Office Agency (VOA) in London. The Handbook details the facility for the valuation of property assets in fraud cases where the claimant's permission has not, or could not, be obtained.

15. Within this contract, there is also the provision for the valuation of property on behalf of Local Authorities (LAs) for properties in the UK only. Further information can be found in the Handbook at Fraud Submissions.

16. When a claimant makes an application for a means tested benefit, they may declare the existence of capital assets. In most cases, these assets will be in the form of savings with a bank or building society, occasionally, such declared capital assets will be in the form of property including land, other than that used as the primary residence, whose attributable value is open to doubt.

17. In these circumstances, Department for Work and Pensions (DWP) has a contractual arrangement with the VOA who will conduct property valuations on its behalf.

18. Valuations may be undertaken at the outset of a claim, when there has been a report of a relevant change in circumstances or when a fraud investigation has uncovered the existence of a previously undeclared capital asset. In general, valuations can be made only with the claimant's consent.

19. However, in fraud cases, it may be necessary to obtain a valuation either where the claimant has refused to give permission **[Redacted]**.

20. For DWP; the Valuer does not legally require the owners consent if there is only a need for an external valuation

21. Valuations should be dispatched within 15 days of receipt at the VOA. Upon receipt, the valuation should be attached to the evidence file and returned to the originating local authority. A copy **must not** be retained in the Operational Intelligence Unit (OIU).

Investigations

22. When a valuation is required, the investigator must complete:

Appendix 6 - Submission of files to **[Redacted]**.

- in the [Valuation of Capital Assets Handbook \(link is external\)](#)
- the fully completed A64 and
- attach a full account of the facts.

23. The completed submission should be forwarded to **[Redacted]**, using the TNT Documented Service.

24. Original documents should not be enclosed, and photocopies should be legible. Only send documents relevant to the capital asset and its valuation.

25. Do not enclose a copy of the claimant's full claim form, although copies of relevant pages concerning the capital asset may be of use.

Local Authorities investigations

26. Within the terms of the contract DWP hold with the VOA, Special Operations also undertake valuations for **UK property only** on behalf of Local Authorities (LAs).

27. Where a LA requires a valuation in a case where fraud is involved and they do not have the claimant's permission to value the property, the case cannot be referred direct to Special Operations for valuation. Local Authority submissions without the claimant's consent are not within the terms of the contract.

28. In these cases the Local Authority will check to see if there is also a DWP interest. Where one exists and joint working is appropriate, the LA will forward all the relevant information to the appropriate Criminal Intelligence Operational Intelligence Unit (OIU), who will, on their behalf, refer the case to **[Redacted]** for a valuation.

29. Local authorities will submit requests on the [LA2 \(link is external\)](#). It is recommended good practice that the full LA fraud file should be included with any referral, however this is not mandatory.

30. Upon receipt of a request from a local authority, the Criminal Intelligence Officer (CIO) will check the request to ensure that sufficient justification has been provided.

31. Although there is no obligation that a request for a valuation be 'a last resort' the CIO should be satisfied that a valuation might reasonably be required.

Case Closure and Retention

00 Introduction

Introduction

1. The purpose of this section is to give guidance on the actions required following the conclusion of a criminal investigation and the retention periods of documents. The times at which closure is appropriate vary according to the outcome of the investigation.

2. Closure of a case on Fraud Referral and Intervention Management System (FRAIMS) by the Team Leader or Higher Investigations Leader is appropriate when:

- a fraud penalty is not appropriate following a criminal investigation
- a Caution has been accepted
- an Administrative Penalty has been accepted and the appropriate cooling-off period has expired
- a conviction or acquittal in court has followed the criminal investigation
- there is no outstanding benefit appeal

3. In England and Wales where a Case Outcome has been recorded as 'Rejected by Sol', the Case Outcome field must not be updated and the case closed until after the second working day of the following calendar month.

4. Where the case has outstanding Financial Investigation Unit (FIU) actions, do not close the case, change the 'Status' to 'Completed with FIU'. The FIU will become responsible for closing the case, see [Closure of Cases with a FIU interest](#).

01 Knowingly allowed cases

Knowingly allowed cases

1. Once it has been established that a partner has knowingly allowed the claimant to make a false declaration or prevented them from reporting a notifiable change and no offence has been established against the claimant, take the following action:

- seek approval to close the case in the claimant's name as no fraud established
- create a new case in the partner's name, see [FRAIMS guidance - Create another case](#).
- transfer relevant documents such as transcripts of interviews with the claimant from the claimant's evidence file to the new file opened in the partner's name.

2. A new case must be opened on FRAIMS in the partner's/other person's name even if the overpayment is recoverable from the claimant. If criminal action is only being taken against the partner/other person that, for FRAIMS purposes, the amount should be recorded on the new case opened in the name of the partner/other person.

3. In cases where the investigation against the claimant is to continue do not close the claimant's evidence file nor their case on FRAIMS but open a separate case and, if appropriate, evidence file for the partner. The two cases must then be linked together on FRAIMS, see [FRAIMS guidance - Linking Cases](#).

002 Closure Action – Fraud penalty cases

Caution or Administrative Penalty accepted

Once a Caution has been accepted the case should be closed. For further information, see [Cautions](#).

When an Administrative Penalty (Ad-Pen) has been accepted, the case should be closed after the appropriate cooling-off period. For further information, see [Administrative Penalties](#).

Local Authorities (LAs) will send the [FPA6 \(link is external\)](#) by the most appropriate, secure mailing route to the Counter Fraud and Compliance Directorate (CFCD) Investigations Team

who notes Fraud Referral and Intervention Management System (FRAIMS) with the details of the Caution or Ad-Pen, see [FRAIMS guidance - LA Outcome notification received](#). For Single Fraud Investigations (SFI) the LA must agree to both the delegation of function and the Ad-Pen using the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form). See [Ad-Pen](#) guidance for steps to take to notify the LA.

England and Wales

In England and Wales, where the Caution or Ad-Pen has been offered at the recommendation of the prosecuting authority, take the following action depending on whether the prosecution file was returned by the prosecuting authority before or after the obtaining of the Requisition.

Caution or Ad-Pen recommended following the Requisition

When the prosecution authority returns the prosecution file with a recommendation that an alternative fraud penalty should be offered, the FRAIMS Case Outcome field should be left at **Prosecution**.

Record that the alternative penalty was issued following the Requisition being obtained and at the request of the Prosecution Authority or Court.

Caution or Administrative Penalty recommended before the Requisition

When the prosecution authority returns the prosecution file with the recommendation that an alternative fraud penalty should be offered before the Requisition is obtained, the Case Outcome field should be updated to Rejected by Sol and the Date of Outcome to the current month's date.

On or after the second working day of the following calendar month, update the Case Outcome to record the Caution or Ad-Pen acceptance and update the Date of Outcome to the current month's date.

Do not update the Case Outcome and Date of Outcome fields until after the second working day of the following calendar month.

Prosecution cases

When prosecution action has been completed, the Crown Prosecution Service (CPS), in England and Wales, will notify details of the Court hearing to the Digital Case Management Unit (DCMU) or the investigator in Serious and Organised Crime cases.

Do not close the case on FRAIMS until all prosecution action has finished. DCMU will send an activity to notify the case owner that they have finished their actions. See [FRAIMS guidance - Notification of Court Hearing result](#).

Consideration must be given to whether a Loss of Benefit penalty is appropriate due to the suspect being prosecuted.

It is particularly important that the date of the Court hearing and the date of the first offence heard at any Court hearing are recorded as these are the trigger points when considering a loss of benefit provision.

In Disability Living Allowance (DLA), Personal Independence Payment (PIP) and Carer's Allowance (CA) investigations a copy of the CH6 must be attached to the FRAIMS case. See [FRAIMS guidance – Closure action](#).

In England and Wales it is not necessary for the investigator to notify the police of the prosecution outcome as this will be done automatically by the court.

Scotland

In Scotland, a clerical prosecution file is not forwarded to the Procurator Fiscal as reports are submitted electronically. The Procurator Fiscal or Sheriff's Clerk arranges for any update to the PNC.

Consideration must be given to whether a Loss of Benefit penalty is appropriate due to the suspect being prosecuted.

It is particularly important that the date of the Court hearing and the date of the first offence heard at any Court hearing are recorded as these are the trigger points when considering a loss of benefit provision.

In Disability Living Allowance (DLA), Personal Independence Payment (PIP) and Carer's Allowance (CA) investigations a copy of the [CH6 \(link is external\)](#) must be attached to the FRAIMS case. See FRAIMS guidance – Closure action.

In Scotland, it is not necessary for the investigator to notify the police of the prosecution outcome as this will be done automatically by the court.

Referring the case for closure approval

22. All actions on the case must be completed before requesting approval to close the case. Ensure that:

- any under or overpayment has been correctly recorded on the Contact record
- colleagues associated to the case have been removed
- where Request For Information (RFI) and/or Regulation of Investigatory Powers Act (RIPA) requests have been made, all actions have been completed
- all activities have been completed, and where appropriate the activity status set to **Done**
- prosecuting authority have finished all their actions on the case, see [FRAIMS guidance – Notification of Court Hearing Result](#)
- the Case Status displays **Closure Action**
- the prosecution file has been returned to the Investigator
- details of the fraud penalty have been input on the FRAIMS record

23. Fraud case closure action will be undertaken by a Team Leader or Higher Investigations Leader or a nominated officer independent of the investigation, Band C (EO) or above.

24. Create an activity to refer the case to the Team Leader or Higher Investigations Leader or nominated officer for case closure action, see [FRAIMS guidance – Closing a Case](#).

Case Closure – Team Leader or Higher Investigations Leader Action

25. The Team Leader or Higher Investigations Leader or the person acting as Deputy for the Fraud Team Leader, must examine the case on Fraud Referral and Intervention Management System (FRAIMS) to check that all actions prior to closure have been undertaken by the Investigator or other parties involved in the investigation. This includes checking all FRAIMS activities have been set to **Done**. Where the case has been referred for closure after prosecution action, the Team Leader, Higher Investigations Leader, or the person acting as Deputy for the Fraud Team Leader, must check that all the prosecuting authority actions have been completed before approving and closing the case.

26. If further action is required, the case must be rejected for closure and returned to the investigator.

27. The Team Leader, Higher Investigations Leader or the person acting as Deputy for the Fraud Team Leader, will be responsible for updating the FRAIMS:

- Outcome
- Date of Outcome
- Status fields
- Stage field

28. In England and Wales the Outcome and Date of Outcome fields must not be updated if an entry is already displayed unless the Outcome displays 'Rejected by Sol'.

29. When the FRAIMS Case Outcome and Date of Outcome fields have been completed, the status should be changed to **Closed**. In doing so, the FRAIMS case will then be closed. Do not close until all Financial Investigation Unit (FIU) action is complete.

Incorrect Monetary Value Adjustment and/or under or overpayment details recorded

30. If during closure action it is discovered that the Monetary Value Adjustment (MVA) and/or under or overpayment details have been recorded incorrectly, action must be taken to update the FRAIMS record with the correct details.

31. A FRAIMS user, with Manager's access, must access the 'Admin – Benefit Decision' and/or 'Admin – Under or Overpayment Decisions' screens and take action to update the information displayed. See [FRAIMS guidance - Admin Views – Amending records](#).

03 Closure action – Non fraud penalty cases

Closure action

If it is decided, following a criminal investigation, that a fraud penalty is not appropriate, action should be taken as follows:

- if the matter is to be referred for Compliance action any evidence file that was raised must then be sent to them
- ensure that the overpayment has been calculated, if appropriate, and that a copy of the letter informing the claimant of the decision on recoverability is in the evidence file. Details of the overpayment must be recorded on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS guidance - Recording the overpayment decision - Criminal](#)
- if the investigator has been advised that the claimant has appealed against the benefit decision, ensure that all action on this has been cleared. See [FRAIMS guidance – Outcome of the Appeal hearing received](#)

Where an Interview Under Caution (IUC) has taken place with the claimant, a [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) must be issued to inform them that they will not be prosecuted for the offence but are still required to repay any overpayment that has occurred. Action to close the non fraud penalty case will be undertaken by the Team Leader, Higher Investigations Leader or nominated officer and the actions to be taken will depend on the arrangements locally regarding who prints and issues the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) to the claimant.

Referring the case for closure

All actions on the case must be completed before requesting closure of the case. You must make sure that:

- any under or overpayment has been correctly recorded on the contact record
- colleagues associated to the case have been removed
- where Request For Information (RFI) and/or Regulation of Investigatory Powers Act (RIPA) requests have been made, all actions have been completed
- all activities have been completed, and where appropriate the activity status set to **Done**.

Responsibility for closing the case on FRAIMS lies with the Team Leader or Higher Investigations Leader. The actions to be taken will depend on who is responsible for issuing the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) (link is external) letter.

Where the Team Leader or Higher Investigations Leader prints and sends the letter, the Investigator should complete the FRAIMS correspondence template, ensuring the Team Leader or Higher Investigations Leader details are used. Merge and generate the letter but do not print at this stage.

Create the activity on FRAIMS to notify the Team Leader or Higher Investigations Leader the case is to be closed and the letter is ready to be issued to the claimant.

Where the Investigator is responsible for the issue of the [CI7 \(link is external\)](#) (link is external) / [CI7W \(link is external\)](#) (link is external), create an activity to notify the Team Leader or Higher Investigations Leader that the case is ready for closure action.

For further information, see [FRAIMS guidance – Closure approval \(Non fraud penalty Outcomes\) - Criminal](#).

GMS matches

Occasionally, GMS referrals are produced erroneously as a result of a process failure or corrupt data.

Upon identification, the Data Matching team issues a notification to Counter Fraud and Compliance Directorate (CFCD) Operational teams advising that affected incidents/cases are to be closed in FRAIMS with an outcome of **No Result** and an outcome result of **MIDAS Data Error**.

The above instruction must only be followed when instruction to do so is received from the GMS team.

Case closure – Team Leader or Higher Investigations Leader actions

10. On receipt of the activity, the Team Leader or Higher Investigations Leader must examine the case and consider if the case is approved for closure. The action to take will depend on who is responsible for issuing the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) letter.

11. Where the Team Leader or Higher Investigations Leader issues the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#), they should print the letter and then close the case.

12. Where the Team Leader or Higher Investigations Leader does not issue the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#), they should update the activity received and return the activity to the investigator so that the letter can be produced and issued.

13. Where no [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) letter is required, the Team Leader or Higher Investigations Leader should update the activity received and close the case.

14. For more information, see [FRAIMS guidance – Closure action appropriate \(Non fraud penalty Outcome\) – Manager’s actions](#)

15. When any correspondence has been issued, close the case.

Incorrect Monetary Value Adjustment and/or under or overpayment details recorded

16. If during closure action it is discovered that the Monetary Value Adjustment (MVA) and/or under or overpayment details have been recorded incorrectly, action must be taken to update the Fraud Referral and Intervention Management System (FRAIMS) record with the correct details.

17. A FRAIMS user, with manager’s access level, must access the **Admin – Benefit Decision’ and/or ‘Admin – Under or Overpayment Decisions** screens and take action to update the information displayed. See FRAIMS guidance [Admin Views – Amending records](#).

04 Retention and destruction of documents

1. The Fraud Referral and Intervention Management System (FRAIMS) user responsible for the case also marks any evidence file cover ‘PA’ (Put Away) along with the date when all action was completed. If a prosecution file was also set up this must be linked to the evidence file, noted with the appropriate destruction date and filed, see

- [Court Hearings \(England & Wales\)](#)
- [Court Hearings \(Scotland\)](#)

Return of documents

2. All documents such as claim forms and letters extracted from case papers must be returned to the appropriate units before the evidence file is closed.

3. If files are stored remotely using RS Web it is important that they are weeded before they are sent to storage to remove documents not owned by the department. This includes (whether genuine, false or counterfeit):

- passports
- bank or credit cards
- driving licences
- medical cards

4. These should be returned to the rightful owners, agency or embassy.

5. Any personal information supplied by witnesses to the Digital Case Management Unit (DCMU) for Police National Computer (PNC) checks must be removed and put in confidential waste sack for Land Security Trillium (LST) and not left on the file.

Retention of documents and electronic data

Legislative considerations

6. The Data Protection Act (DPA) 2018 requires that personal data is not kept longer than is necessary. It is for each business unit to decide how long data should be retained. Department for Work and Pensions (DWP) policy is that data is retained only if a business need exists.

7. Criminal Procedure and Investigations Act (CPIA) 1996 Code of Practice (COP) 5.9 states that documents used in a criminal investigation should be retained for a minimum of six months from the date of conviction. However if a custodial, imprisonment or hospital order, sentence has been imposed the documents should be retained for a minimum of six months or until the claimant's release whichever is the longer. CPIA does not apply in Scotland.

Retention of evidence files in England and Wales

8. Except where an [exception](#) to the normal retention policy exists, the Counter Fraud Compliance Directorate (CFCD) Document Retention (DR) policy for evidence files is 14 calendar months from the date an evidence file is marked put away (PA).

9. If there is an outstanding appeal against conviction or the Criminal Case Review Commission (CCRC) is considering an application, the evidence and prosecution files cannot be destroyed until these matters have been resolved.

10. See the [Information Management Policy \(link is external\)](#) for further information.

Retention of evidence files in Scotland

11. In Scotland, evidence files should be retained for 14 calendar months from the date the evidence file is marked PA, if a Caution or Administrative Penalty is issued or if the case is closed with no fraud penalty.

12. If the prosecution file is referred to the Procurator Fiscal (PF) for prosecution the documents must be retained for two years from the PA date to bring in line with Crown Office policy.

Retention of Caution documents

13. Documents relating to the administration of a Caution should be filed in the evidence file. Fraud Referral and Intervention Management System (FRAIMS) retains computer records relating to Cautions for a period of five years.

14. As the Certificate of Caution may be required by the courts if a future prosecution of the suspect takes place, the original Certificate of Caution must be retained locally separately and securely for five years. A copy of the Certificate of Caution must be retained in the evidence file.

15. There is no requirement to retain the rest of the evidence file for more than 14 months unless there is a legitimate business need to do so for a particular case.

16. When a Caution has been issued on behalf of another organisation, for example, when the Local Authority issues a Caution in relation to a Department for Work and Pensions (DWP) administered benefit, the organisation that issues the Caution is responsible for retaining the Certificate of Caution for five years.

Retention of electronic data held on Fraud Referral and Intervention Management System

17. The Data Protection Act 2018 requires that personal data is not kept longer than is necessary. It is for each business to decide how long data should be retained. DWP policy is that data is retained only if a business need exists.

18. Incidents and cases within FRAIMS are retained for a specified period and then automatically deleted. All records associated to the incident or case, for example, contacts, suspects and activities will be deleted when the incident or case is deleted.

19. See [Retention and deletion period on FRAIMS](#) for further information.

Exceptions to the normal retention policy

Retention of Regulation of Investigatory Powers Act forms

20. All forms and other documents connected with directed covert surveillance must be kept for three years in line with Home Office Regulation of Investigatory Powers Act (RIPA) 2000 Code of Practice. This includes original RIP 1 - 4 and surveillance logs.

21. When considering the case for destruction, Fraud Referral and Intervention Management System (FRAIMS) applies the three year rule for cases with surveillance requests or the five year rule for cases with fraud penalties, whichever is the longer.

Retention of official notebooks

22. Completed official notebooks must be retained for not less than three years from the date of the last entry or six months after the expiry of a successful appeal against conviction, whichever is the longer.

23. Official notebooks containing information about investigations which have resulted in a custodial sentence being imposed should be kept until the sentence has been completed as this information may be required as part of a Criminal Cases Commission enquiry.

24. For further information see [Management of official notebooks](#).

Custodial sentences

25. In England and Wales, in order to comply with the Criminal Procedure and Investigations Act (CPIA) 1996 Code of Practice (COP) paragraph 5.9, documents should not be destroyed prior to release from prison when the claimant receives a custodial sentence. Although this act does not apply in Scotland the principle is regarded as good practice.

26. Unless the department receives notification that the convicted person has been released early, documents should be retained until the sentence imposed by the court is spent if this exceeds 14 calendar months, two years in Scotland.

27. For example, if a claimant receives a three year custodial sentence on 1 December 2007 the documents should be retained until 1 December 2010 unless confirmation of an early release is obtained.

Retention of documents held by Incident Management or Criminal Intelligence

28. Where an incident is considered not suitable for further action, clerical documents, including post that is received in addition to the Fraud Referral Form (FRF), can be destroyed three calendar months after receipt. For further information see [Incident Management](#).

29. Disclosure requests are retained for 14 calendar months from the date of request. For further information see [Disclosure of information to third parties](#).

Outstanding appeals against conviction and applications to the Criminal Cases Review Commission or Scottish Criminal Cases Review Commission

30. In order to comply with paragraph 5.10 of the CPIA COP, relevant material cannot be destroyed if an appeal against conviction is outstanding or the Criminal Case Review Commission (CCRC) is considering an application in respect of a possible miscarriage of justice.

31. CPIA does not apply in Scotland but documents should be retained if an appeal against conviction is outstanding or an application to the Scottish Criminal Case Review Commission (SCCRC) in respect of a possible miscarriage of justice is under consideration.

Exception under Proceeds of Crime Act 2002

32. In Financial Investigation Unit (FIU) cases when a confiscation order has been made, documents used in the financial investigation must be retained for six years from the date of the order in accordance with Proceeds of Crime Act (POCA). These documents will be in a separate file to be used by Investigations or Serious and Organised Crime Investigation and kept in secure accommodation by the FIU.

Destruction of documents

33. All fraud documents, except for those listed above under exceptions to the normal retention policy and cases referred to the Procurator Fiscal (PF) in Scotland, should be destroyed 14 calendar months after the evidence file is marked 'PA'.

34. In Scotland, documents relevant to cases referred to the PF should be destroyed after two years.

35. This does not apply where there is an outstanding appeal against conviction or the Criminal Case Review Commission (CCRC) is considering an application. Evidence and prosecution files cannot be destroyed until these matters have been resolved.

36. All documents for destruction must be placed in confidential waste sacks which are collected by Land Services Trillium (LST).

Sending documents to remote storage

37. Due to the lack of storage space in offices it is often more practical to send documents to remote storage using the RS Web system. When sending documents to remote storage ensure that they are sent by courier using the TNT Documented Service taking the following action:

- Use the correct colour coded polylope which is for the exclusive use by Department for Work and Pensions (DWP)
- Ensure that the package is secure
- Ensure that the package is correctly addressed with the correct one line TNT courier address

38. For further guidance on the use of courier services see DWP Financial and Commercial - [Courier/Postal Services \(link is external\)](#).

39. If evidence and prosecution files are stored remotely using the RS Web system they are destroyed 14 calendar months from the date of PA unless one of the exceptions listed above applies or in Scotland the case was referred to the PF.

40. When there is an exception to the normal retention policy or the case was referred to the PF in Scotland, the evidence and prosecution files should be endorsed 'Not to be Destroyed until [date]' before sending to remote storage.

Retention and destruction of tapes and digital discs

41. Audio or video tapes and compact or digital versatile discs (CDs/DVDs) should be destroyed or securely disposed of at the same time as documents. This does not apply to surveillance tapes or discs that must be kept for three years in accordance with Home Office Regulation of Investigatory Powers Act (RIPA) 2000 Code of Practice. See [Retention of Regulation of Investigatory Powers Act forms](#).

42. When an evidence file is deemed for destruction, master audio or video tapes and discs, where retention is not required under RIPA, should be retrieved and destroyed or securely disposed of at the same time.

43. DVDs and CDs must be disposed of in confidential waste sacks, which are:

- clearly marked as **Magnetic Media**
- separate from the paper confidential waste sacks
- stored in a secured and locked location.

Arrangements can be made with Telereal Trillium Customer Service Centre (TT CSC) to collect and dispose.

44. The data content of audio or video tapes can be erased using a degaussing machine, which demagnetises the tape. Degaussing may be ineffective if:

- the strength of the degaussing magnetic field is not maintained for the required period
- if the media is removed before the degaussing cycle is complete
- the wrong type of degausser is used

45. Alternatively, audio or video tapes can be physically mutilated by the removal and mutilation of tape reels prior to disposal.

46. The mutilated and/or deleted tapes must be placed in a separate sack to that used for paper waste, clearly marked as **Magnetic Media** and arrangements made for TT CSC to collect them. There is no additional charge for this service.

Obtaining waste sacks

47. Confidential waste sacks are obtained from TT CSC. Any problems encountered regarding disposal of confidential waste, including audiotapes, should be raised with the TT CSC, telephone number **[Redacted]**.

Destruction of electronic data held on Fraud Referral and Intervention Management System

48. As with clerical documents the Data Protection Act (DPA) requires that personal data is not kept longer than is necessary. It is for each business to decide how long data should be retained. DWP policy is that data is retained only if a business need exists.

49. Incidents and Cases within FRAIMS are retained for a specified period and then automatically deleted. All records associated to the incident or case, for example, contacts, suspects, activities etcetera are deleted when the incident or case is deleted.

50. Activities cannot be manually deleted by the FRAIMS user unless they are in the process of creating the activity. If it is decided that an activity is not required or was created in error, it is not possible to delete the activity. Instead, the 'Resolution' must be updated to 'Created In Error' and the 'Status' set to 'Done'.

Destruction of electronic data held by the Digital Forensic Team

51. During an investigation, Serious and Organised Crime (SOC) Digital Forensic Team may be tasked with Triaging electronic media devices gained in connection to an offence. Any information obtained from these devices will be burned to DVD with a working copy and master copy and held locally with the fraud file. A back up image of the data from devices may be stored and archived on standalone systems at the Digital Forensic Hub.

52. It is the responsibility of the Officer In Charge/Senior Intelligence Leader (OIC/SIO) to inform the Digital Forensic Manager when this data is available for destruction. This will usually be at the same time the physical file is deemed for destruction.

53. To complete the destruction of this data an email should be sent to the following Inbox containing the case name, FRAIMS reference number and date for the destruction to completed: **[Redacted]**

54. The Digital Forensic Hub where the archive is held will subsequently be contacted to enable the deletion of any data held. As several investigations may be archived on one drive, the free space will be wiped using third party tools to ensure compliance to appropriate legislation.

55. When all data held on an Archive drive has been deleted, the device will be forensically wiped using third party tools.

Retention and Deletion periods on Fraud and Referral Intervention Management System

Type	Retention period	Starting from	Automatic deletion at end of retention period	
1	Incidents where no fraud or Compliance activity has taken place, such as, there is no justification for pursuing further	13 weeks	Creation Date	Yes
2.	Cases where a surveillance application has not been recorded in the Case Surveillance view and the Case Outcome is 'No Result'	26 weeks	Closure Date	Yes
3.	Cases where a surveillance application has not been recorded in the Case Surveillance view and the Case Outcome is other than: Admin Penalty Caution Prosecution	14 months	Closure Date	Yes

4	Cases where a surveillance application has not been recorded in the Cases Surveillance view, and not in category at line 6	2 years	Closure Date	Yes
5	Cases where a surveillance application has been recorded in the Cases Surveillance view, and not in category at line 6	3 years	Closure Date	Yes
6	Loss of Benefit cases and the Case Outcome displays: Admin Penalty Caution Prosecution	5 years	Closure Date	Yes
7	Audit Events	48 hours	Last Extract	Yes

Caution

00 Introduction

Introduction

1. The formal Cautioning system was introduced in England and Wales (E&W) on 1 June 1998, for Scottish Local Authorities (LAs) on 1 October 2002 and for Counter Fraud Compliance Directorate (CFCD) Scotland in 2004.

2. The use of Cautions is purely administrative, there is no legislation covering their use. Any prosecuting authority can introduce a Cautioning policy.

What is a Caution?

3. A Caution is a warning, given in certain circumstances, as an alternative to prosecution, to a person who has committed an offence.

4. A Caution can only be considered when there is sufficient evidence to justify instituting criminal proceedings and the person has admitted the offence during an Interview Under Caution (IUC).
5. This means that if the evidence is not strong enough to be accepted for prosecution by the prosecuting authority or there are other factors such as the claimant's ill health or the claimant is [identified as an individual with complex needs and/or requiring additional support \(link is external\)](#), a Caution should not be considered.
6. For further information, see [Prosecution Policy](#).
7. In England and Wales, if the person is subsequently prosecuted for another benefit offence the Caution may be cited in Court.
8. In Scotland, whilst the Caution cannot be cited in Court, it may be referred to in the report submitted to the Procurator Fiscal for consideration of prosecution for any subsequent offence.
9. Department for Work and Pension (DWP) policy and the guidance provided are based on instructions issued by the Home Office in Circular 30/2005 to the Police on the Cautioning of Adult Offenders Part 1 Simple Cautioning. This has since been replaced by [Home Office Circular 016/2008 \(link is external\)](#).

Delegation of Function

10. Counter Fraud Compliance Directorate (CFCD) may offer Cautions in respect of benefit administered by DWP. Investigations cannot decide to offer Cautions in respect of Housing Benefit (HB) or Council Tax Benefit (CTB).
11. Local Authorities may decide to offer Cautions in respect of HB/CTB offences. They cannot decide to offer Cautions in respect of Department for Work and Pensions (DWP) administered benefits.
12. If the decision by both organisations is that a Caution is appropriate, the lead organisation can issue a Caution on behalf of the other by using delegation of functions.
13. For more information, see [Cautions and Local Authorities](#).

Cessation of Cautions - 1 April 2012

14. A Caution can no longer be offered by the Department for Work and Pensions (DWP) on cases where the offence is committed wholly on or after 1 April 2012, or the period of the offence spans before and after the 1 April 2012.
15. Where appropriate, an Administrative Penalty must be considered. See [Administrative Penalties.criteria](#)
16. A Caution can still be offered on cases handled after 1 April 2012 where the offence was committed wholly before 1 April 2012.

01 Caution criteria

When can a Caution be offered

1. A Caution is appropriate where all the following conditions are met:
 - the offence was committed wholly before 1 April 2012, see [Cessation of Cautions from 1 April 2012](#)
 - there is sufficient evidence of the person's guilt
 - the public interest test is met
 - the offence is not indictable only
 - a clear and reliable admission of the offence has been obtained
 - the overpayment is less than £2,000, except for certain cases when a Caution can be offered even if the overpayment exceeds £2,000 unless CPS have directed the Investigator to issue a caution (even if after 01 April 2012).

2. The following sections provide more information about the considerations when deciding if the offer of a Caution is appropriate.

Cessation of Cautions from 1 April 2012

3. A Caution can no longer be offered by the Department for Work and Pensions (DWP) on cases where the offence is committed wholly on or after 1 April 2012, or the period of the offence spans before and after the 1 April 2012. Where appropriate, an Administrative Penalty must be offered.

4. A Caution can still be offered on cases handled after 1 April 2012 where the offence was committed wholly before 1 April 2012, or where we are directed to offer a Caution by CPS.

Admitting the offence

5. A Caution cannot normally be offered unless the person has admitted the offence during the Interview Under Caution (IUC) unless the prosecuting authority suggest otherwise. For example, a Caution is not appropriate if intent to fraudulently obtain benefit is denied, or if there are doubts about the claimant's mental health or intellectual capacity.

Overall overpayment considerations

6. There is no minimum overpayment limit for prosecution purposes in Caution cases providing an offence has been committed and fully admitted by the claimant.

7. A Caution can be offered when there is no loss to public funds following the presenting of a false document, for example, a manipulated cheque is presented at a Post Office but the Post Office clerk impounds the cheque and no payment made.

8. A Caution cannot be offered in cases where there is no loss to public funds following a claimant's failure to declare a change of circumstances. This is because under the Social Security Administration Act (SSAA) 1992 there would be no offence. The Court of Appeal in the case of R v Passmore [2007] EWCA Crim 2053 refers.

9. When the offence has caused a potential loss to public funds, a Caution can be considered prior to the overpayment being calculated and a decision made on its recoverability. Not applicable in joint working cases – see [Delegation of Function](#). Alternatively, a Caution may be considered appropriate on confirmation of the amount and recoverability of the overpayment.

Overpayment exceeds £2,000

10. Exceptionally, when directed by CPS for cases submitted to them, a caution can be offered for any offence period. The reasons for this decision must be fully documented on FRAIMS in the Activity Description/Comments field.

Administrative delay

11. Before offering a Caution, ensure that there has been no inordinate or inexcusable delay in the investigating or administration of the case, particularly where this leads to the case being time-barred.

12. However, even if the case is time-barred, a Caution may still be considered if the case satisfies the prosecution requirements of Section 112 or other fraud related offences.

Checking for previous fraud penalties

13. In England and Wales, the deterrent value of the Caution lies in the fact that it can be cited for sentencing purposes in the event of the person being found guilty of a subsequent benefit offence. The Caution may also be cited in a bad character application under the Criminal Justice Act 2003.

14. In Scotland, any Caution can be referred to in the report to the Procurator Fiscal (PF) for consideration in a subsequent benefit offence.

15. A check should be made to establish if the suspect has committed previous benefit offences within the past five years which resulted in a criminal conviction, or if the suspect has accepted or rejected a Caution or Administrative Penalty.

16. Details of previous case outcomes are recorded on FRAIMS, see [FRAIMS guidance – Checking for previous outcomes](#).

When not to offer a Caution

17. The Team Leader / Higher Investigations Leader should consider the following cases for prosecution rather than the offer of a Caution:

- the person's previous history of offending. A Caution is unlikely to be an effective deterrent to a person with a history of benefit offences unless these were very trivial and the person had not previously been prosecuted or had an Administrative Penalty
- the person has been prosecuted for a similar benefit offence during the past five years. The fact that prosecution has not deterred the person from re-offending indicates that a Caution would not be appropriate to that person
- the person has accepted a Caution more than once in the past five years. Even when each offence was very minor, the fact that the person has at least two Cautions indicates the offer of the Caution has had no deterrent effect
- the person shows no regret for their actions does not consider the offence to be serious or shows little or no regard for Social Security legislation. A Caution is unlikely to be effective in these circumstances
- the case indicates that the fraud is organised, there is a level of sophistication to the fraud and/or there is a breach of trust. These cases could include those where an individual has taken part in a more organised fraud.

The list is not exhaustive and each case should be treated on its own merits.

18. In England and Wales, if the person is under the age of 18, a Caution should not be considered as these people should be considered for the Final Warning Scheme; see [Juveniles](#).

19. If the person has not previously committed a benefit offence and the total overpayment is less than £2,000, a Caution may be sufficient deterrent but this should not, on its own, exclude prosecution as there may be aggravating factors such as working under a false identity.

20. For guidance on the process to be followed to record the Caution approval, see [FRAIMS guidance – Obtaining the Manager's approval for fraud penalty action](#).

Obtaining approval for the offer of a Caution

Investigator actions

21. Before referring the case to the Team Leader (TL) / Higher Investigations Leader (HIL) for approval, the investigator must consider:

- the claimant's attitude to the offence such as signs of remorse and the likely deterrent effect
- whether the suspect has committed other benefit offences within the past five years resulting in a criminal conviction, or the acceptance, or rejection, of a Caution or Administrative Penalty (Ad-Pen).

22. If the investigator considers that either of the following criteria for offering a Caution are satisfied, they should submit the case to the TL / HIL with supporting evidence for the recommendation.

Overpayment officially calculated

23. The investigator must ensure that the evidence file contains a:

- schedule of the overpayment, QB16 or equivalent
- Decision Maker's (DMs) decision on the recoverability of the overpayment and

- copy of an [ORG7 CP/No CP WA \(link is external\)](#) / [ORG7W CP/NoCP WA \(link is external\)](#) / [ORG7 Fraud WA \(link is external\)](#) / [ORG7W Fraud WA \(link is external\)](#) letter sent to the claimant, which must include a paragraph to say that any repayments are accepted without prejudice to any further action that may be taken.

Overpayment not calculated prior to Interview Under Caution

24. Prior to the Interview Under Caution (IUC), the investigator may consider that sufficient evidence is available from which a reasoned judgement can be made to offer the person a Caution.

25. Raise an activity on FRAIMS detailing:

- period of fraud
- benefit type
- duration of overlap
- potential overpayment amount.

Team Leader / Higher Investigations Leader actions

26. On receipt of the FRAIMS Caution approval activity, the TL / HIL must consider the following points, the:

- person is 18 years of age or over, this consideration does not apply in Scotland
- evidential and the public interest criteria for prosecution as detailed in the code for Crown Prosecutors are satisfied.
- person has not committed a benefit offence before
- person has committed a minor benefit offence within the last five years but was not prosecuted for the earlier offence, although a Caution may have been issued, and the current offence is minor
- person has fully admitted/is expected to fully admit the offence during a Interview Under Caution (IUC).
- person's attitude towards the offence indicates that a Caution would be a suitable alternative to prosecution, for example, they expressed remorse for what they had done
- Caution is likely to act as a deterrent
- offence is minor, and the amount of the overpayment is, or is anticipated to be, below £2,000 except for certain cases when a Caution can be offered even if the overpayment exceeds £2,000
- criteria for the Departmental prosecution policy are satisfied.
- list is not exhaustive or exclusive and the circumstances relevant to each individual case must always be considered.

27. Information about claimant's previously suspected, or investigated for benefit fraud, where a fraud penalty was not issued, should also be taken into account by the TL / HIL when considering whether to offer a Caution.

28. There is no hierarchy in the way Department for Work and Pensions (DWP) consider Cautions or Ad-Pens. All aspects of the claimants known circumstances should be taken into account in deciding which is more appropriate. This consideration includes both welfare and financial considerations and must be applied on a case-by-case basis.

29. If the TL / HIL is satisfied that the offer of a Caution is appropriate, record the decision on the activity and return the activity to the case owner.

Obtaining legal advice England and Wales

30. If the Team Leader (TL) / Higher Investigations Leader (HIL) is unsure whether a Caution should be offered advice can be sought from a lawyer at the prosecuting authority.

31. The request for advice should be set out in writing in a word document detailing what the TL / HIL believes to be the exceptional reasons for offering a Caution.

32. For more information, see [FRAIMS guidance – Obtaining legal advice](#)

Scotland

33. If the TL / HIL is unsure whether a Caution should be offered, the case should be prepared for prosecution and referred to the Procurator Fiscal (PF), to consider prosecution. The PF will decide whether to prosecute or dispose of the case differently, such as the issue of a warning letter.

02 Caution action

Caution interviews

1. Cautions can only be offered in a face-to-face interview. Under no circumstances can they be offered by any other method.
2. Where the criteria for offering a Caution prior to the overpayment calculation have been met, the Counter Fraud Compliance Directorate investigator should consider putting the offer to the claimant after closing the Interview Under Caution (IUC).
3. It is essential that the claimant is made aware of the seriousness of the offence, prior to being given time to consider the offer of a Caution and any subsequent Caution interview being undertaken

Officer administering the Caution

4. The Caution should be offered by an officer not below the grade of CFCD investigator (Band C), and who has the suitable training and experience to perform the task competently.
5. The officer administering the Caution must not be the officer who interviewed the person under Caution and should not normally be an officer who was present during the Interview Under Caution (IUC).
6. The officer should be associated to the case by the primary owner so that they have sight of the case details, see [FRAIMS guidance – Fraud penalty request approved - Associating a colleague](#).
7. If there is no other officer available to administer the Caution it is acceptable for an officer who was present at the IUC to administer the Caution as long as that officer had acted as second officer at the IUC and had not taken an active role in questioning the person.
8. It is important to ensure that Cautions are offered and are seen to be offered, by experienced officers to prevent their use being devalued in the eyes of the public.

Arranging the interview

Office Interview/Visit

9. The onus is upon the person to attend an appointment in the office. A special appointment should be made for the person to attend for interview when it is intended to offer a Caution.
10. There are circumstances where consideration could be given to conducting the Caution interview in the claimant's home. This should be carefully considered where other options have failed and interviews should only be carried out in the claimant's home in exceptional circumstances.
11. The following examples are occasions when a home visit could be considered:
 - following an accident to the claimant
 - lone parent with children under five or
 - claimant now working.This list should not be considered exhaustive.

12. Record the method of interview and the appointment letters issued on FRAIMS, see [FRAIMS guidance – Scheduling an interview](#) and [Scheduling a visit](#).

13. Complete and issue the [FC2 \(link is external\)](#) / [FC2W \(link is external\)](#), held as correspondence templates on FRAIMS, to the person who is being interviewed.

Failure to attend

14. If the person fails to attend a first appointment and does not contact the office to arrange another appointment details of the failure to attend must be recorded on FRAIMS, see [FRAIMS guidance - Failure to attend the Caution interview](#).

15. Efforts should be made to find out why the claimant failed to attend, including:

- checking the address the appointment letter was sent to, to confirm it is the correct address
- attempting to contact them by telephone to arrange a further interview.

This list is not exclusive.

16. Complete and issue the [FC3 \(link is external\)](#) / [FC3W \(link is external\)](#).

17. Details of all efforts made must be recorded on FRAIMS, as the Prosecuting Authority requires this information when they consider the case for prosecution.

18. If the person fails to attend a second time and does not contact the office within five working days, prepare the case for proceedings, see [FRAIMS guidance – Caution not accepted - Further action to be considered](#).

19. If following the second failure to attend the Caution interview, it is decided that the case is not to be considered for prosecution action, complete and issue the [FC4 \(link is external\)](#) / [FC4W \(link is external\)](#) / [FC4A \(link is external\)](#) / [FC4AW \(link is external\)](#).

Change of address before the interview

20. If the person moves to another area before the Caution interview can be conducted, the FRAIMS case and evidence file should be transferred to the office which covers the claimant's new address, see [FRAIMS guidance – Transferring a case](#).

21. The new office will be responsible for continuing the Caution action.

22. On completion of the Caution, the team that gave the Caution will record the result on the case

Preparation for the interview

23. Before the interview is due to start, the officer undertaking the Caution interview should:

- make sure they are familiar with the case and
- have available the contemporaneous record or summary of the taped Interview Under Caution (IUC) and the evidence shown to the person during the IUC, as they may need to show these to the person during the interview.

24. The officer must also complete parts A and B on the appropriate Certificate of Caution:

- [FC1 \(link is external\)](#)/[FC1\(S\) \(link is external\)](#)/[FC1W \(link is external\)](#) - for offences that occurred partly or wholly before 1 April 2010
- [FC1LBS \(link is external\)](#)/[FC1SLBS \(link is external\)](#)/[FC1LBSW \(link is external\)](#) - if the offence was wholly on or after 1 April 2010

25. Details of the offence at paragraph B on the [FC1/FC1S/FC1W \(link is external\)](#) should be specific, for example:

“Between (date) and (date) you (person's name) knowingly failed to disclose you were working at (name place of work) contrary to section 112 of the Social Security Administration Act 1992. The recoverable amount of the overpayment from the claimant on which the caution is based is £"

26. It is necessary to be very precise in recording the offence for which a Caution is being offered. This is because if the Caution needs to be cited in Court or referred to Procurator Fiscal (PF) at a later date there must be no doubt as to exactly why the Caution was offered.

27. It is important the correct form is completed as the [FC1LBS \(link is external\)](#)/[FC1SLBS \(link is external\)](#)/[FC1LBSW \(link is external\)](#) forms includes an understanding that acceptance of the Caution could result in loss of benefit.

The setting for offering a Caution

28. The offering and the administering of a Caution is a serious and important matter, which needs to be handled as formally as possible. It is therefore particularly important that the person is made very aware of the seriousness of the offence.

29. The Caution interview should take place in a room that is suitable for the purpose, for example, a room similar to those used for Interviews Under Caution.

Interpreters

30. If English is not the claimant's first language ensure that someone is present at the interview who can act as interpreter. This person can be a:

- relative
 - friend or
 - member of staff with a command of the person's language.
31. No interpreter's fees are payable to these individuals. If an interpreter is required and the claimant is unable to provide their own, it is Department for Work and Pensions (DWP) policy that the Department should provide one.

32. Information on the DWP Interpretation Services, can be found on the [Business and Financial Services \(link is external\)](#) web-page

Individuals with complex needs / requiring additional support

33. If the person being interviewed is identified as an [individual with complex needs and/or requiring additional support \(link is external\)](#) ensure that an appropriate adult is present during the Caution interview. This person may be a:

- relative
- friend or
- person responsible for their welfare such as a social worker.

34. This should be the same person who accompanied them at the Interview Under Caution as they already have knowledge of the circumstances connected with the alleged offence.

35. If an individual requiring additional support attends the interview without the presence of an appropriate adult, ask whether they would like the interview re-arranging to an alternative date to enable the attendance of the appropriate adult

36. If the person says that they do not want the interview re-arranging or to be accompanied by an appropriate adult, the interview should proceed. The fact that the person declined the presence of an appropriate adult must be recorded on FRAIMS.

Conducting the Caution interview

37. For further details about the points to be covered during the Caution interview, see [Aide-memoire for conducting Caution Interviews](#).

Preliminary explanations

38. When the person is first shown to the interview room, the Cautioning Officer should introduce themselves and any other officer present and their role.

39. From the outset of the interview, the person must be made aware of and understand:

- the gravity of the situation
- the serious nature of the offence and
- understands the seriousness of their actions.

40. Do not, however, cause the person to feel intimidated or threatened.

41. During the preliminary explanation, the Cautioning Officer must explain that:

- the person has been asked to attend because they believe the person has admitted to committing an offence and that there is sufficient evidence to pass the case to the prosecuting authorities to consider instituting criminal proceedings against them
- on this occasion, the Team Leader / Higher Investigations Leader has decided that the person, if they agree, should be given the opportunity to accept a Caution instead of criminal proceedings being instituted against them
- in accepting a Caution the person is required to make a written admission of the offence
- in England and Wales (E&W), if the person agrees to accept a Caution, any Caution may be cited in subsequent criminal proceedings for benefit fraud
- in Scotland, if the person agrees to accept a Caution, any Caution may be referred to in the report submitted to the Procurator Fiscal (PF) for consideration of prosecution for a subsequent benefit offence.

Cautioning Process

42. The person must understand:

- the significance of the Caution itself
- the seriousness of the situation
- that a record is kept of the Caution
- that in accepting the Caution, it will influence the decision whether or not to prosecute if the person should offend again
- that the Caution may be cited in Court for sentencing purposes if the person should subsequently be found guilty of a different benefit offence by a court (E&W),
- that any Caution may be referred to in the report submitted to the PF for consideration of prosecution for any subsequent benefit offence (Scotland).

43. Additionally, the person must understand that the Caution is being offered as an alternative to criminal proceedings being instituted against them and that they are being given another chance. They must also agree to the Caution. No one should be coerced into accepting a Caution

44. Do not invite the person to offer excuses or mitigating circumstances for their offence. If the person tries to offer any mitigating circumstances, advise them that they had the opportunity to do this earlier and that any further reasons or excuses at this stage cannot be considered.

Caution administered prior to overpayment calculation

45. Where a Caution is administered prior to the calculation of any overpayment, provide the claimant with an explanation of the decision making process.

46. On obtaining a claimant's acceptance of a caution, the investigator must prepare the overpayment file for the Decision Maker/Debt Centre to establish any official overpayment.

47. If the overpayment is recorded as nil or a decision can not be made by the Decision Maker, the Caution must be withdrawn.

Informing claimant of Loss of Benefit fraud penalty

48. If the whole of the offence occurred on or after 1 April 2010, the claimant must be told that if they accept the Caution any benefit they currently receive or may later receive may be subject to a reduction.

49. For more information, see [Loss of Benefit Provisions – One Strike Process](#).

Person admits the offence

50. Particular care must be taken when explaining the implications of a Caution, as most people are not familiar with either legal proceedings or the process of Cautioning.

51. Only when the Cautioning officer is satisfied that the person fully understands the procedure and its implications should the Caution form be completed and the person asked to sign the Certificate of Caution.

52. The Cautioning officer should enter their own name, details and signature at 'Endorsement of the Cautioning Officer' on the Certificate of Caution.

53. The Cautioning officer should either:

- completing two copies which must be signed by the Cautioning officer and the person or
- completing one copy which must then be photocopied after being signed by the officer and the person and before the interview is terminated.

54. A copy of the Caution certificate and a Loss of Benefit fraud penalty letter [LBS1\(AC\)](#) ([link is external](#)) / [LBS1\(AC\)W](#) ([link is external](#)), if the whole of the offence occurred on or after 1 April 2010, must be given to the claimant before the interview is terminated.

55. The person must be told that they should keep the Certificate of Caution in a safe place.

56. Remind them that the Department for Work and Pensions (DWP) holds its own copy on the evidence file and that a formal record of the Caution is now held by the Department.

57. Remind the person also, that if they should attempt to defraud again, the fact that they have been Cautioned will be taken into account.

58. Record details of the acceptance on the FRAIMS case see [FRAIMS guidance - Action after the Caution interview](#).

Person refuses the Caution or to Admit the offence

Person refuses the Caution

59. If the person decides not to accept the Caution in place of being prosecuted, do not try to make them change their mind or threaten them in any way.

60. Remind them that by refusing to accept a Caution, criminal proceedings may be instituted against them.

61. Note the person's refusal on the Certificate of Caution [FC1](#) ([link is external](#))/[FC1S](#) ([link is external](#))/[FC1W](#) ([link is external](#)) and terminate the interview.

Person refuses to admit the offence

62. If the person disputes the fact that they admitted the offence during the Interview Under Caution (IUC), the Cautioning officer may show them the contemporaneous record of the IUC or the summary of the tape recording of the IUC with specific reference to where the claimant admitted the offence.

63. If the person still denies admitting the offence, inform them that a Caution cannot be offered and the case will now be referred for criminal proceedings.

64. If this is done it is very important that the Cautioning officer does not say or do anything that might be interpreted as coercion or duress. The interview should then be terminated.

65. Record details of the refusal/rejection on the FRAIMS case see [FRAIMS guidance - Action after the Caution interview](#).

03 Action after the Caution interview

Recording the details of the interview

1. The investigator must record a summary of the Caution interview, including details of the claimant's demeanour during the interview, on the FRAIMS activity.

2. If the person refuses accept the Caution or to admit the offence, additionally record:

- the reasons given for declining to accept the Caution
- the claimant's reasons for disputing the fact that they admitted the offence during the Interview Under Caution (IUC)

- any other comments/statements made by the claimant,
3. If necessary a separate Word document should be produced and attached to the activity.
 4. For more information, see [FRAIMS guidance – After the Caution interview](#)

Caution accepted

5. Acceptance of the Caution must be recorded on the claimant’s contact record, see [FRAIMS guidance – Recording the Caution acceptance](#)
6. Do not complete / update the Outcome and Date of Outcome fields at this stage, this will be completed by the Team Leader (TL) / Higher Investigations Leader (HIL) / nominated officer when they approve closure of the case.
7. If the whole of the offence occurred on or after 1 April 2010 ensure that Loss of Benefit action is taken, for more information, see Loss of Benefit Provisions – [One Strike Process](#)
8. In England and Wales, if the Caution is offered following the return of a prosecution file by the Crown Prosecution Service (CPS), the Outcome field will display ‘Prosecution’. The investigator must check at what stage the file was returned and advise the TL / HIL / nominated officer as the actions to be taken to record the Caution acceptance are different depending on whether the decision to offer the Caution is made pre or post the laying of information.
9. In England and Wales, where the Caution is being accepted following the case having been rejected by the Crown Prosecution Service, the ‘Outcome’ and ‘Date of Outcome’ fields must **NOT** be updated until after the second working day of the following calendar month.
10. When the outcome has been recorded, take case closure action.

Cancellation of a Caution

11. Where a nil overpayment has been officially calculated, but a Caution has been offered and accepted by the claimant, the Caution must be rescinded. A [FC1 C \(link is external\)](#) must be issued to the claimant and a copy placed on the evidence file.

Caution refused or rejected

12. If the claimant refuses to accept the Caution, update the claimant’s Contact record to show they have refused to accept the Caution and the case should then be considered for criminal proceedings, irrespective of the amount of the overpayment, see [FRAIMS guidance – Caution rejected](#).
13. The case should be referred to the Prosecution Authority to consider criminal proceedings.
14. The prosecution file should be prepared in the normal way. Ensure that the Summary of Facts includes the wording: “This prosecution follows on from the defendant (‘Accused’ in Scotland) refusing to accept the offer of a Caution in respect of his/her overpayment.”
15. In England and Wales, the following text should also be included:

“In those circumstances there is an application for a contribution towards the prosecution costs of this case in the sum of £200. This is higher than the figure normally applied for but reflects additional resources expended by Department for Work and Pensions / Local Authority in preparing this case for criminal proceedings.”
16. Ensure that the following are included in the prosecution file, a full report of the:
 - claimant’s failure to attend two appointments for a Caution interview, or
 - Caution interview, during which the claimant declined to accept a Caution including details of the claimant’s demeanour, what they said and their reasons for not wishing to accept a Caution.

England and Wales

17. When criminal proceedings take place, the Court is informed that the person declined to accept a Caution in order to explain why proceedings are being taken.

Scotland

18. The fact that the person declined to accept a Caution can be referred to in the report to the Procurator Fiscal (PF) for consideration.

Time-barred cases – Section 112 and 112(1A)

19. If the offer of a Caution is declined, as the case will only involve a low amount, £2,000 or less, the case should only be suitable for criminal proceedings under section 112 or 112(1A) of the Social Security Administration Act (SSAA) 1992.

20. If the case is close to being time-barred for criminal proceedings, consider whether Secretary of State Certificate will be required, see [Offences subject to time-bar](#) to enable the case to be prosecuted. The case should be prepared for prosecution as soon as possible but within a maximum of 55 working days from the sufficiency of evidence date (the sufficiency of evidence date being the date when the DLORG7 is received in the Counter Fraud Compliance Directorate (CFCD)).

Case not accepted by Prosecuting Authority

21. If the prosecuting authority decides not to institute criminal proceedings, complete and issue [FC4A \(link is external\)](#) / [FC4AW \(link is external\)](#).

22. Update the case to record that no criminal proceedings are to follow, see [FRAIMS guidance - Updating the Contact Caution & Penalties details](#).

04 Cautions and Local Authorities

Delegation of Function

1. In all cases involving Department for Work and Pensions (DWP) benefits and benefits administered by the Local Authority (LA), consideration must be given to joint working and whether the function of offering a fraud penalty can be delegated.

2. If the decision by both organisations is that the offer of a Caution is appropriate, the lead organisation can issue a Caution on behalf of the other by using delegation of functions.

3. A written agreement must be completed on behalf of the Secretary of State or LA agreeing to the action to be taken by the other. This agreement will confirm, if challenged, the authority of the organisation to offer the Caution on behalf of the other.

4. In order to obtain a written agreement for all cases involving DWP benefits and Housing Benefit/Council Tax Benefit (prior to 1 April 2013) (HB/CTB) where the investigating organisation proposes that the way of dealing with the offence is by way of a Caution. Jobcentre Plus/LA should use the [AG1 \(link is external\)](#) and [AG2 \(link is external\)](#).

5. AG1 (Part I) is used to:

- notify the outcome of an investigation
- notify the intention to offer a Caution
- confirm the offer of a Caution is the appropriate way of dealing with the offence
- request agreement to offer the Caution in a joint interview.

6. AG1 (Part 2) must be completed on behalf of the Secretary of State/LA by the Counter Fraud Compliance Directorate (CFCD) Team Leader (TL) / Higher Investigations Leader (HIL) / LA Fraud Manager.

7. On completion, e-mail the AG1 (Parts 1 and 2) to the appropriate LA for consideration. Protection, such as encryption, is not required if sent within the Government Secure Internet (GSI) network, for example; GSI, GSX, GCSX, GSE, see [Movement of documents – Security markings](#).

8. The AG1 (Part 2) is used to provide a reply to the AG1 and:

- confirms a Caution is, or is not, considered to be the appropriate way of dealing with the offence
- provides or refuses written agreement for the Caution to be offered on the organisation's behalf or for joint action.

9. The issue of the AG1 (Parts 1 and 2) must be noted on FRAIMS, see [FRAIMS guidance – Delegation of functions – Cautions & Administrative Penalties](#).

10. The AG2 is used to notify the outcome of the Caution action, where the function of offering the Caution has been delegated to the other organisation and is signed on behalf of the Secretary of State/LA by the TL / HIL / LA Fraud Manager.

11. Where the Caution has been accepted it will be returned with the Certificate of Caution ([FC1 \(link is external\)](#)/[FC1S \(link is external\)](#)).

12. Staff in DWP and LA should liaise closely where Caution action is intended. In some cases, it may be appropriate to consider criminal proceedings for both the DWP and the LA overpayments.

13. This applies in DWP particularly where the total overpayment for DWP benefits plus HB/CTB (prior to 1 April 2013) amounts to more than £2,000.

Use of the AG1

Local Authority only investigations

14. Following conclusion of the Interview Under Caution (IUC), the Local Authority (LA) will issue the FPA4 and C.Pen to the locally agreed Counter Fraud Compliance Directorate (CFCD) Point Of Contact to obtain:

- a decision on current and past entitlement and request the overpayment calculation of Department for Work and Pensions (DWP) benefit
- details of any previous fraud penalty action within the past five years held on FRAIMS.

15. Any contact received from the LA must be recorded on FRAIMS, see FRAIMS guidance:

- [LA request benefit or overpayment decision](#)
- [Request for information about previous Cautions and Ad-Pens](#).

16. On return of the FPA4 reply, the LA will

- have the Housing Benefit (HB)/Council Tax Benefit (CTB) (prior to 1 April 2013) overpayment calculated, and suspended if appropriate,
- on receipt of the DWP and HB/CTB (prior to 1 April 2013) overpayment figures, make a decision whether, or not, to offer a Caution.

17. On return of the C.Pen, if a Caution is still appropriate, the LA will issue the AG1 to the CFCD Team Leader (TL) / Higher Investigations Leader (HIL) with copies of the evidence, Interview Under Caution (IUC) transcripts and copies of all overpayment decisions.

18. Where the CFCD TL / HIL agrees that a Caution is the appropriate way of dealing with the offence and to the delegation of that function, they will return AG1 (Part 2) to the LA Fraud Manager.

19. The LA will now offer a Caution on behalf of both organisations.

Counter Fraud and Compliance Directorate investigations

20. Following the conclusion of the IUC, Counter Fraud Compliance Directorate (CFCD) will have the DWP overpayment calculated and decide if the offer of a Caution is appropriate. If so, they:

- issue FPA4 Investigation Result (Jobcentre Plus) to the LA
- check for any previous fraud penalty action on any case linked to the current case recorded on FRAIMS, see [FRAIMS guidance – Checking for previous outcomes](#).

21. On receipt of the FPA4 reply, if a Caution is still appropriate, issue [AG1 \(link is external\)](#) to the LA Fraud Manager with copies of; the IUC transcripts and all overpayments decisions.
22. Any contact received to the LA must be recorded on FRAIMS
23. If the LA Fraud Manager agrees that a Caution is the appropriate way of dealing with the offence, they will return AG1 (Part 2) to CFCD, record the return on the case, see [FRAIMS guidance – Record the LA Response](#).
24. CFCD may now offer a Caution on behalf of both organisations.

Joint investigations

25. In joint investigations it should be decided which organisation will be the lead for prosecution and fraud penalty action.
26. Each organisation ensures that the overpayment is calculated for the benefit(s) they administer and pass the overpayment decisions to the lead organisation for the relevant fraud penalty action.
27. A joint decision must be made to determine whether the offer of a Caution is the appropriate way of dealing with the offence.
28. If it is decided that a Caution is the appropriate way of dealing with the offence the lead organisation check for previous fraud penalties to ensure that a second Caution is not administered erroneously.
29. In the DWP, details of the outcome of previous cases are recorded in FRAIMS on the Contact record for the individual. By interrogating the Contact Legal Outcome, Caution or Penalties view it can be determined if, during the previous five years, the claimant has:
 - been convicted of benefit fraud
 - agreed to pay or rejected the offer of an Administrative Penalty
 - accepted, or rejected, the offer of a Caution.
30. If a Caution is still appropriate, the lead organisation issues the AG1 to the other organisations CFCD Team Leader / Higher Investigations Leader LA Fraud Manager who returns the AG1 (Part 2).

05 Aide-memoire for conducting Caution interviews

Cessation of Cautions from 1 April 2012

1. Cautions are only offered by the Department for Work and Pensions (DWP) on cases where the offence was committed **wholly before** 1 April 2012. Where appropriate, an Administrative Penalty must be offered. See Fraud Guide – [Administrative Penalties](#).

Aide-memoire

2. Tell the interviewee, the Department for Work and Pensions (DWP)/Local Authorities (LAs) believes they have committed an offence.

Details of the offence

- explain what offence has been committed
- show an appropriate evidence to the person
- remind the person, that they admitted the offence during the Interview Under Caution (IUC).
- if the person disputes that they admitted the offence, show them a copy of the IUC transcript.

Seriousness of offence

- advise claimant that defrauding the DWP/LAs is a serious offence.
- tell person the DWP has sufficient evidence upon which to base a prosecution.

- tell the person that in accepted a Caution the decision of whether to prosecute should they re-offend will be influenced.

Explanation of a Caution

- advise that the offer of a Caution is an alternative to prosecution
- advise that a record will be kept that a Caution has been offered, and that:
 - in England and Wales, it may be cited in Court if they commit a further benefit offence
 - in Scotland, if they commit a further benefit offence the issue of the Caution may be mentioned in the report to the Procurator Fiscal
- advise that a person can be offered the Caution as an alternative to prosecution because the Secretary of State or LA believes that they have committed an offence
- advise that the overpayment will be recovered from weekly benefit or by other means whether the person agrees to accept a Caution or not
- advise that a person is not obliged to accept the Caution but, if declined, the DWP/LA will consider prosecution
- show the person the Caution acceptance form
- advise that once the acceptance of the Caution has been made in writing the agreement cannot be withdrawn.

Advising claimant of the Loss of Benefit Provisions - One Strike

Note: Only when the whole of the offence occurred on or after 1 April 2010

- explain that this is a fraud penalty in accordance with Social Security (Loss of Benefit) Amendment Regulations 2010
- advise claimant that any Social Security benefit they receive may be the subject of a reduction or withdrawal for a period of four weeks.

Ensuring claimant understands what has been discussed

- does the person understand everything?
- do you need to ask the person questions to make sure they understand, particularly in relation to the Loss of Benefit provisions?
- does the person want to ask questions or need you to go over any points again?

Offering the Caution

- does the person accept the offer of a Caution?
- is the Caution agreement form ([FC1 \(link is external\)](#)/[FC1S \(link is external\)](#)/[FC1W \(link is external\)](#)) signed in triplicate/photocopied?
- has a copy of the agreement form ([FC1 \(link is external\)](#)/[FC1S \(link is external\)](#)/[FC1W \(link is external\)](#)) been given to the person?
- give the claimant a copy of the Loss of Benefit Provision (One Strike) letter.

00 Children and Childcare

Full details of all aspects relating to children and childcare costs can be found in Universal Learning Children's Hub.

Children

An eligible child for Universal Credit Full Service is below the age of 16 is the claimant's responsibility and lives in the claimant's household.

A Qualifying Young Person is (QYP) is over the age of 16 with the following circumstances.

- From their 16 birthday until 31 August following that birthday, whether or not they are in Full Time Education
- Up to 31 August following their 19 birthday if they are enrolled in, or accepted for an approved training or a course of non advanced education which is
- Provided at a school, college or elsewhere but approved by the Secretary of State (SoS)
- Average time spent during term times in tuition, practical work, supervised study or taking exams (minus meal breaks) exceeds 12 hours per week.

Looked after child / QYP

Legal definition of a looked after child / QYP is one where a Local Authority has the responsibility for that child / QYP maintenance and care, including a duty to accommodate and have a care plan.

If a child/QYP is a 'looked after child/QYP the parent will not receive an additional payment for the child/QYP. This is to avoid the duplication of payments made by different parts of the government.

If a child/QYP is in prison their parent would not be awarded any additional payment.

Disabled Child Addition

A disabled child addition can be payable dependant upon DLA/PIP in payment or the child is blind. The amounts payable are dependant on what rates of benefit are received.

Child Dependency Risk / Referrals

There are different scenarios that could lead to a risk or referral the most common types of referrals being:-

- Child not living at the property
- Child in prison
- Child is deceased
- Child left full time education

This list is not exhaustive

Child Care costs

Families will be eligible to receive childcare where

- The child with child care is an eligible child
- The eligible child is being cared for by a registered or qualifying provider/person
- The adults or both adults if a couple claim, are in paid work or have accepted a job that is due to start before the end of the next Assessment Period (AP)
- The child care costs were reported in the AP they were paid
- Childcare costs were reported and paid in the current and/or the previous AP

For couple claims, both have to satisfy the work condition for child care costs, but there are allowable exceptions and these are where 1 member is working and the other

- Has limited capability for work and work related activity
- Has regular and substantial caring responsibilities for severely disabled person
- Is temporarily absent from the household (e.g. in prison, hospital or residential care)

A child care provider must be registered with

- OFSTED in England
- Care and Social Services inspectorate for Wales (CSSIW)
- Care Inspectorate in Scotland

Details and costs from the provider must be supplied by the claimant.

[Redacted]

Civil Penalties

00 Introduction

Introduction

The new Civil Penalty process was introduced on 1 October 2012 for recoverable overpayments beginning on or falling wholly after that date.

This is one of the changes that was approved as part of the Welfare Reform Act 2012, designed to make the benefits and tax credits system fairer and simpler.

01 Who qualifies for a civil penalty?

Who qualifies for a civil penalty?

The Civil Penalty allows for the Department for Work and Pensions (DWP) to impose a £50 penalty on claimants who:

- 115(C) – negligently made an incorrect statement / negligently gave incorrect information in connection with a benefit claim / award without taking reasonable steps to correct the error, resulting in an overpayment of benefit
- 115D(i) – failure, without reasonable excuse, to provide information as required, resulting in an overpayment of benefit
- 115D(ii) – failure, without reasonable excuse, to notify a relevant change of circumstances, resulting in an overpayment of benefit

[Decision Makers Guide \(link is external\)](#)

This will mean that in all cases where the decision maker for the appropriate authority (Secretary of State or a local authority) satisfies themselves that an overpayment has arisen as a result of the claimant's culpable failure or negligence, will impose a Civil Penalty as well as recovery of the overpayment.

Where inconsistencies in a claim are identified, a decision maker will consider the full circumstances of the case, including any further information supplied by the claimant against the guidance on what constitutes negligence, reasonable steps or reasonable excuse. They will then decide whether or not a Civil Penalty is appropriate.

Each case will be considered individually.

There will be just the one outcome decision which will be made up of the overpayment decision and the £50 Civil Penalty decision. The appeal rights (and the timescales for appeal) will flow from this one decision.

It is intended that the introduction of the £50 Civil Penalty will deter claimants from negligent behaviour in the future and increase their personal responsibility for keeping claims correct.

02 Investigations action

Investigations action

A Civil Penalty cannot be applied to cases of benefit fraud. However, not all Investigations proceed to a fraud penalty and these cases can be flagged for consideration by the decision maker at the point of decision and overpayment referral, as to whether they can impose a Civil Penalty.

Decision Referrals must be made in the normal way, using the electronic referral process for the majority of benefits. However, the need for the Decision Maker to consider whether a Civil Penalty should be imposed should be highlighted within the summary note of the case. It must be made clear that a fraud penalty outcome is not appropriate.

It is important to identify when submitting a referral that includes flagging for Civil Penalty consideration where in the interview transcript there is evidence to show:

- the reasons as to why the claimant did not report or reported a late change of circumstances
- the reasons as to why the claimant declared incorrect information and or failed to make right the incorrect information.

Civil Penalty consideration must be flagged at the referral stage and cannot be requested after the overpayment action has taken place. This is because the Civil Penalty decision is notified to the customer on the same ORG7, or equivalent form, as the total overpayment.

The recovery of the Civil Penalty is undertaken by Debt Management alongside the overpayment.

Where a Civil Penalty has been calculated, this figure **must not** be recorded as part of the overpayment on the case. It does not count towards the Total Corrective Value measure and any Management Information required on the use of Civil Penalties will be obtained via Debt Management.

The Fraud Referral And Intervention Management System (FRAIMS) case closure, when a Civil Penalty has been imposed, will still be under the Positive Criminal outcome. These closures will not affect the percentage measure of Proportion of Positive Outcomes with a penalty.

Compensation Orders and Court Costs E&W

00 Introduction

Introduction

Court Costs

1. Section 18 of the Prosecution of Offences Act (POA) 1985 enables the court to make a costs order against a convicted defendant or unsuccessful appellant, for example, a defendant who has lost their appeal against conviction/sentence. It is under this provision that the Crown Prosecution Service (CPS) lawyer will be seeking a costs order against the defendant. These provisions do not apply in Scotland.

2. In criminal proceedings, costs can include the costs incurred by the prosecuting authority in bringing the case to court and the associated litigation costs as well as those costs incurred in carrying out the criminal investigation.

Compensation Orders

3. The power of the Court to make Compensation Orders is governed by the Powers of Criminal Courts (Sentencing) Act 2000, (sections 130–134).

4. The maximum sum that may be ordered for any offence committed prior to or spanning the 11 December 2013 is £5,000 and is restricted to the total of the amounts on the substantive charges, together with those on the Taken Into Consideration (TIC) schedule, up to a total of £10,000 in the Magistrates' Court.

5. For offences committed wholly on or after the 11 December 2013 date there is no limit on the value of a single compensation order handed down to an adult offender, 18 years and older, by a Magistrates' Court.

6. There is no limit on the value of a compensation order made by the Crown Court.

01 Court Costs

Criteria used by courts

1. Paragraph VI.1.4 of the Practice Direction (Costs: Criminal Proceedings 2004) explains that a costs order under Section 18 of the Prosecution of Offences Act (POA) 1985 should only be made where the court is satisfied that the defendant has the means and ability to pay.

2. The High Court has laid down the following guidelines for the imposition of costs against a defendant or unsuccessful appellant:

- the order to pay costs should never exceed the sum which the offender is able to pay, and which it is reasonable to expect the defendant to pay, having regard to the defendant's means and any other financial order that may have been imposed
- the amount of the costs order should not exceed the sum which the prosecutor has actually and reasonably incurred
- the purpose of the costs order is to compensate the prosecutor and not punish the offender
- the amount of the costs order should not be grossly disproportionate to any fine imposed by the court. Where the fine and the costs exceed the sum which the defendant could reasonably be ordered to pay, the costs should be reduced rather than the amount of the fine.

Standard cost applications

3. In a guilty plea case in the Magistrates' courts an application towards costs in the sum of £100 should be sought unless there is a Financial Investigation Unit (FIU) interest. If FIU interest see: Cases submitted to the Financial Investigation Unit.

4. In a not guilty plea case in the Magistrates' courts, regardless of whether the defendant changes their plea to guilty at a later hearing or the case goes to trial, an application towards costs should be sought in the sum of £250 unless there is a Financial Investigation Unit (FIU) interest. If FIU interest see Cases submitted to the Financial Investigation Unit.

5. In Crown Court cases the case lawyer at the Crown Prosecution Service (CPS) will brief counsel on the amount of costs to be claimed.

Cases submitted to the Financial Investigation Unit

6. If the case has been submitted for a financial investigation and the Financial Investigation Unit (FIU) are instigating confiscation proceedings, do not apply for court costs at the prosecution hearing as any application made by the FIU for confiscation would include the criminal and financial investigation costs.

7. Under Part VII.2.1 of the Practice Direction, confiscation proceedings are treated for costs purposes as part of the criminal trial. If confiscation costs are sought they will be calculated by an officer at the FIU.

Applying for Court costs

Full costs

8. When considering whether to apply for costs you must take into account that the defendant will probably still have an overpayment to repay to the Department and the award of costs will add to the financial burden.

9. Case Law dictates it is wrong in principle to order a defendant to pay costs they are unable to pay within a period of about 12 months. In view of this full court and investigative costs should only be considered in the following cases:

- non-compliant employer cases
- collusive landlord cases
- other cases where it appears that the defendant has the means to pay the full costs.

10. Other consideration could include those non-declaration of capital cases where the defendant will still have sufficient capital once the overpayment has been paid or failure to declare employment cases where the wage statement indicates wages far in excess of the benefit rates.

11. Each case must be considered on its own merits. In the majority of cases prosecuted by Department for Work and Pensions (DWP), it will not be appropriate to apply for full court costs as it will be necessary to satisfy the Court that the defendant has ability to repay within 12 months.

12. It will not be necessary to make additional enquiries such as through the Operational Intelligence Unit (OIU) to determine the person's ability to pay costs. If there is insufficient information following the criminal investigation to consider full costs you should not apply for them.

How to calculate full court costs

13. If the case meets the criteria for the consideration of applying for full court costs the investigator must complete form [EC6 \(link is external\)](#) which will give the court details of the investigative and file preparation costs as well as other expenses such as witness expenses and the cost of obtaining forensic evidence.

14. Costs incurred by the Digital Case Management Unit (DCMU) / Central Prosecution Team (CPT) in the preparation must be added to the EC6 schedule by DCMU/CPT prior to submission to the Crown Prosecution Service (CPS).

15. The investigative and file preparation amount will be the time spent in hours on each stage multiplied by the hourly rate for the grade. This will be mainly the Band C rate, but may

include some Band D time or Band E, for example, if surveillance took place and Regulation of Investigatory Powers Act (RIPA) authorisation was required.

16. You will need to obtain the average costs for officers from the Finance Business Partner.

17. In joint working cases costs incurred by the investigator from the other organisation such as the Local Authority (LA) must be considered when an application for full costs is to be made.

18. It will not always be possible to determine at the start of the investigation that the case will meet the criteria for applying for full costs. If it is evident from the outset that an application for full costs may be appropriate, it may be beneficial for the investigator to keep a log of the time spent on the case.

19. If an application for full costs is to be considered in a case involving more than one defendant the following must be considered:

- does each defendant have the ability to pay full costs within 12 months? If not should we be asking for full costs from any of them?
- in serious fraud cases should full costs only be considered from the main players/ringleaders? It may be necessary to obtain advice from the CPS on this aspect.

20. Documents sent for forensic service examination are sometimes relevant for more than one operation. In these circumstances forensic costs must be divided between the relevant operations.

21. The box for the legal representation costs must be completed by the CPS.

Contribution towards costs

22. If the case does not meet the criteria for applying for full costs, it is the CPS's policy for the prosecuting solicitor to ask the Court to consider making an order for a contribution towards costs. It is not necessary in these cases to complete a schedule of the full investigation and prosecution costs. It is anticipated that it will not be appropriate to apply for full costs in the majority of cases DWP prosecute.

Award of costs

23. The decision of whether to award costs and the amount is entirely at the discretion of the court. There is no right of appeal against the amount awarded.

24. In cases investigated jointly with another organisation such as the Local Authority, the Court will only award costs to the prosecuting authority. It is not possible to later allocate part of the costs to the other organisation.

Recording the award of costs

25. Once the defendant has been convicted and costs awarded the Crown Prosecution Service (CPS) will notify of any cost awarded and this should be recorded on the 'Results' screen in FRAIMS, see [FRAIMS guidance - Recording the Legal Outcome](#).

02 Compensation Orders

Compensation Orders

1. Department for Work and Pensions (DWP) policy, apart from large Counter Fraud Compliance Directorate (CFCD) Criminal Investigations cases, is to ask Courts to award Compensation Orders to recover overpaid benefits where the following circumstances apply:

- the claimant is off benefit, for example, in remunerative employment and in the opinion of the prosecuting authority, is liable to be off benefit for at least six months after the Court

date. This assures, as far as possible, that the defendant is likely to repay the Order in a reasonable time scale, normally considered to be one or two years, and that they are unlikely to be asking the Courts to revoke the Order on the basis of their inability to pay and/or the extent of the arrears

- where applicable, the total overpayment, less any amount repaid, does not exceed £5,000, see Compensation Orders and Court Costs E&W [00 Introduction - Compensation Orders](#), except in exceptional cases outlined below.
2. Consideration must also be given to ensuring that the Compensation Order covers the whole of the overpayment and that the overpayment is not split, that is, only part of it covered by the Compensation Order.
 3. If further information comes to light following consideration by the Team Leader (TL) / Higher Investigations Leader (HIL), it must be brought to the attention of the prosecutor. This would include cases suitable for consideration at the time of the court hearing for a Compensation Order that were previously not appropriate.
 4. Housing Benefit (HB) and/or Council Tax Benefit (CTB) (prior to 1 April 2013) should be included in the compensation order providing that agreement is obtained from the Local Authority (LA) on the COMP1.
 5. It is essential that a check of the defendant's circumstances is made prior to the Court date to establish whether the seeking of a compensation order is still appropriate in line with the criteria.
 6. In exceptional circumstances where it is known the defendant has sufficient means to cover the total overpayment when it exceeds £5,000, for example, a capital case, it may be practicable and realistic for the defendant to pay a substantial sum back within two years. In these circumstances, consideration should be given to seeking a Compensation Order in excess of £5,000.
 7. People required to pay Compensation Orders as a result of being prosecuted by DWP/LA, must make their payments to the court which notifies DWP/LA/Compensation Recovery Group (CRG) by means of a monthly schedule of the amounts repaid.
 8. Once a Compensation Order has been issued, the COMP3 that has been placed on the prosecution file should be handed to The Clerk to the Justices. This gives the address to where payments should be sent by the court.
 9. Court Collection Services (CCS) needs to maintain correct computer records on new cases prior to first payments of a Compensation Order being made. It is essential that a copy of the [CH6 \(link is external\)](#), prosecution report, is sent to CCS, by TNT documented services, in every case where the court awards a Compensation Order to the following address:

[Redacted]

10. Failure to send the CH6 to CCS means that they are unaware of the result of the prosecution until payments are received on the payment schedules.
11. Where this happens, CCS has to obtain all the relevant information about these payments, the person making them and the details of the Compensation Order from the courts.
12. Once a person has paid the whole amount of the Compensation Order imposed against them, CCS notify the appropriate overpayment section to enable them to start recovery action on any other outstanding overpayment.
13. Overpayment recovery action, where appropriate, cannot begin until the Compensation Order has been paid in full.

14. In order to help CCS notify the appropriate Debt Centre or Local Office Overpayment Section of the Compensation Order/Court costs, record at section (e) of the CH6 the Debt Centre location and telephone number.

Cases accepted for a financial investigation

15. Compensation Orders must not be sought where the Department is requesting a financial hearing for confiscation. If you are unsure whether the case has been accepted for a financial investigation you should:

- check FRAIMS to confirm if the Financial Investigation Unit (FIU) are involved with the case
- contact the FIU to check before considering compensation, see [Financial Investigations](#).

16. Where a financial investigation has been conducted, confiscation proceedings and prosecution costs are dealt with by way of a confiscation hearing in the Crown Court. This takes place after the guilty verdict has been delivered and in conjunction with sentencing. Sentencing may in some circumstances be delayed until the financial hearing takes place.

17. The FIU prepares all papers and attends the financial hearing on behalf of the Department. The Crown Prosecution Service (CPS) provide suitably appointed Counsel to deal with the financial hearing. This may, exceptionally, be different Counsel to that taking the criminal prosecution.

18. Consideration is given to requesting that the Confiscation Order incorporates amounts payable as compensation to the Department or other agency as part of the order resulting from the financial hearing.

19. The responsibility for enforcing the confiscation order, regardless of to whom this is payable and by what mechanism, is that of the Magistrates' Court.

20. The FIU takes responsibility for monitoring the payments to the Magistrates' Court and that the Court takes appropriate enforcement action. This includes monitoring default sentences and subsequent recovery by means determined by the Court. In some cases the order may be amended at a later date. FIU ensures that the criminal investigator and debt management are kept informed of the payment and enforcement regime.

21. Even if part or the whole of the overpayment has been repaid the Court may still award a confiscation order, the case of *R v Farquhar* [2008] All ER (D) 140 (Mar) refers.

Court Hearings (England & Wales)

00 Introduction

Introduction

1. This section sets out the procedures to be followed by the Department for Work and Pensions (DWP) Counter Fraud Compliance Directorate (CFCD) investigators once the prosecution file has been submitted to the Crown Prosecution Service (CPS) It describes the events that take place prior to the first hearing, at the first and subsequent hearings and post hearing.
2. In a prosecution case the investigator's involvement does not cease at the end of the Interview Under Caution (IUC), rather, the IUC and investigation is only the beginning of their involvement.
3. The co-operation of investigators, in compiling witness statements, for example, is crucial to the successful outcome of the case see [Achieving best evidence in Criminal Proceedings \(link is external\)](#) for further guidance.
4. In serious and complex police arrest cases dealt with by CFCD Criminal Investigations, the investigator has, in the vast majority of cases, prepared a full file for prosecution at Crown Court and continues to liaise with both the CPS and through them, prosecuting counsel, as the matter progresses through the courts.

01 Arrest Summons Number

Arrest Summons Number

1. The process to obtain the Arrest Summons Number (ASN) from the Police will be undertaken by a Single Point of Contact (SPOC) based within the Digital Case Management Unit (DCMU) who will liaise with the local police SPOC.
2. Although service is now by requisition this number will still be referred to as an ASN.
3. Where Counter Fraud Compliance Directorate Criminal Investigations have sent a case directly to the Crown Prosecution Service (CPS) all actions taken to record the ASN and **NPA01** should be undertaken by the Criminal Investigator.
4. When the CPS is ready to commence criminal proceeding, they will e-mail a request to the DCMU inbox requesting an ASN from the police SPOC and an address check.
5. The e-mail should be in the following format:
Subject line: Restricted (or Official – Sensitive) – URN – MG3 – ASN – Address Check required.
Message: MG3 attached (inc FRAIMS No) includes: Court – Date of Hearing & SS Codes with Charges.
6. All information normally taken from the requisition tab on FRAIMS will be on the **MG3 (link is external)**.
7. Upon receipt of the activity, the DCMU should save the NPA01 into a 'My Documents' folder and attach to FRAIMS.
8. The offence(s) and offence period(s) should be copied from the FRAIMS Requisition tab and input onto the appropriate NPA01, see [FRAIMS guidance - Attaching documents to Activities](#).
9. The code indicated at each charge must be copied into the 'offence' field on the NPA01. This must be done for every charge and recorded (in brackets) after the relevant Act and Section details, for example: Social Security Administration Act 1992 Section 112 (1A) (SS 92037).
10. The DCMU should then e-mail the documents to their local police force to obtain the ASN.
11. When the ASN is received, note the NPA01 and input the number onto the 'More Information' tab on FRAIMS.
12. Also check the defendant's address using the Customer Information System (CIS) and/or FRAIMS, to obtain the most up to date address held.

13. E-mail details of the ASN along with the most up to date address details to CPS so that the criminal proceedings can commence. The e-mail must be sent in the following format:

Subject line: Official - Sensitive – URN – MG3 – ASN – Address Check enclosed.

Message: Current address details and ASN.

14. The actions of obtaining the ASN must be recorded on FRAIMS, see [FRAIMS guidance – Sending the ASN to CPS](#).

02 Commencement of proceedings

Commencement of proceedings

1. The usual practice in non-police prosecutions is for the prosecutor to commence criminal proceedings to take the following action, for the Department for Work and Pensions (DWP), this function will be taken by the Crown Prosecution Service (CPS). They will:

- contact the Magistrates Court to arrange a court hearing date
 - prepare and send a requisition to the defendant by first class post to their last known address This will give the date, time and place of the court hearing and list the offences the defendant is charged with, exceptionally this may be served personally on the defendant, see Personal service of the requisition
 - send a copy of the requisition to the court
 - notify the Digital Case Management Unit (DCMU) who will record the action taken on FRAIMS which will alert the investigator of the court hearing date.
2. When the court hearing date is known, create an activity on the FRAIMS case, see [FRAIMS guidance – Recording the Court Hearing date](#).

Personal service of the requisition

3. The Crown Prosecution Service (CPS) sometimes requires personal service of the requisition when the:

- defendant is of no fixed abode or the address is not known
 - requisition was returned by the Post Office as they were unable to deliver it
 - defendant fails to attend the first hearing. Some courts are reluctant to grant applications for a warrant of arrest unless requisitions are served personally.
4. The CPS will send a notification to the Digital Case Management Unit (DCMU) if they require the case owner to serve the requisition by hand, see [FRAIMS guidance – CPS request FES serve requisition by hand](#).
5. An un-notified visit must be undertaken. Where the defendant is of no fixed abode, or their address is not known, and they are still receiving benefit, the requisition can be served at the normal place of attendance for benefit payment.
6. In each case, the requisition and accompanying documents must be handed to the defendant, but do not enclose them in an envelope. On no account must the officer attempt to forcibly affect service. This could constitute an assault, for which the officer may be prosecuted in a Criminal Court or sued in a Civil Court.
7. If the defendant does not accept the requisition, the officer must let it fall to the floor and note what happened in their official notebook (N1). Rarely, a defendant may be seen in a Department for Work and Pensions (DWP) office and served with the requisition.
8. When the requisition has been served in person on the defendant, the person who served the requisition must state in their official notebook that it has been served along with the date, time and location.
9. Notify the DCMU who will notify the CPS when the requisition has been served, or if it has been impossible to serve the requisition, by creating an activity to DCMU on the FRAIMS case, see [FRAIMS guidance - Notifying DCMU that requisition request has been actioned](#).

10. At the court hearing it may be necessary for the person who served the requisition personally to give evidence to confirm this if the defendant does not attend. The CPS will inform the investigator whether this is required.

11. Where neither postal nor personal service is possible or successful the only option available is to apply to the court for a warrant at first instance. For further details, see Warrants.

Leaving the requisition with a third party

12. Leaving the requisition with a third party at the usual place of abode or elsewhere is not personal service. Where the defendant is not at home during normal working hours it may be more appropriate to serve the requisition at their place of employment.

Service by the police

13. Where there is a serious risk of physical violence, the police can be asked to accompany the investigator to effect service and make sure there is no breach of the peace.

Accompanying documents

14. Usually in DWP, summary and triable either way cases, the requisition is served with an Advance Information pack.

15. All requisitions for either way offences must be accompanied by either:

- a Magistrates Court (Advance Information Rules 1985) Rule 21 notice, which explains the defendant's rights on advance disclosure in either way prosecutions
- witness statements setting out the prosecution's case or a summary of the facts and matters upon which the prosecution proposes to produce in evidence.

16. The CPS, as Crown Prosecutors, decide what is served on the defendant in DWP prosecutions.

Warrants

17. If the requisition cannot be served on the defendant, or the CPS believes that the claimant is likely to abscond immediately and there is no time to wait for the requisition to be served, a warrant without bail at first instance can be applied for by the prosecuting authority.

18. In the latter situation, the CPS must inform the Magistrates Court of their concerns immediately and make an urgent application for a warrant.

Police arrest and charge

19. Where the prosecution is initiated by police arrest, the suspect is either charged:

- at the Police Station by a police officer and brought before the court in police custody, or
- released on bail to attend the court on a specified day to answer the charge.

20. In the Department for Work and Pensions (DWP) the above action usually only occurs in Counter Fraud Compliance Directorate Criminal Investigations operations. These cases usually involve indictable only offences and therefore proceed directly to the Crown Court.

21. The investigator must inform the Crown Prosecution Service (CPS) as soon as it is known an arrest is to take place and they must immediately supply the CPS with all available documentation, which forms part of the prosecution file.

22. The investigator must also inform CPS as soon as a court date is known so that it can arrange for a prosecutor to present the case at court. The details of the court hearing must be noted on FRAIMS, see [FRAIMS guidance – Recording the court hearing date](#).

03 Obtaining previous convictions

Previous convictions

1. It is important for sentencing purposes that the court is aware of the defendant's previous convictions, police Cautions and Department for Work and Pensions (DWP)/Local Authority (LA) Cautions.
2. All previous convictions and police Cautions should be held on the Phoenix software program, on the Police National Computer (PNC). Previous DWP/LA Cautions are recorded on FRAIMS.

Digital Case Management Unit Phoenix check on prosecution cases

3. Prosecution files submitted to the Digital Case Management Unit (DCMU) must include a copy of the [NPA01](#). The details on this form enable DCMU to undertake a previous conviction check and place a record of any previous convictions on the prosecution file prior to the first hearing.

Police activation of Phoenix record

4. In case investigated by Counter Fraud Compliance Directorate (CFCD) Criminal investigations, the Police undertake the charging of the suspect and therefore normally set up the crime record on the PNC, in which case no further action is required by the Criminal Investigator.
5. In all other cases a crime record will not have been set up for the offences. This will mean that a NPA01 should be completed by the investigator and submitted to the police officer dealing with the case.
6. This allows fingerprints and Deoxyribonucleic Acid (DNA) samples to be linked to a particular individual and assists the police when updating the PNC at the end of the court case when the conviction also needs recording.
7. If an NPA01 is completed ensure it is as a word document and attach to the activity recording its issue to the case on FRAIMS.

04 Action prior to the court hearings

Action required immediately prior to a hearing

1. Immediately prior to the first hearing and all subsequent uncontested hearings, of which they are aware, the investigator must undertake address and benefit checks so that the prosecution and court are informed of all relevant matters affecting the case.

Address and benefit checks

2. The investigator must ensure that the following up to date information has been sent to the Crown Prosecution Service (CPS) prior to the court hearing date:

- current address of the defendant and details of any recent moves
- rates of all benefits in payment
- current employment/earnings, if available
- details of all children
- details of any appeal that has been lodged.
- details of any other relevant recent developments to the case.

3. The Digital Case Management Unit (DCMU) will be responsible for obtaining details of the amount of overpayment recovered to the date the Arrest Summons Number (ASN) was requested and the weekly rate of recovery and will forward this information direct to the CPS.

4. The onus is on the defendant to provide information regarding their financial position. However, these details may assist the court and enable the prosecutor to correct any wrong information given. They may also:

- alert the CPS that the account of the defendant's means does not match those currently being declared to the Department for Work and Pensions (DWP)/Local Authority (L)A
- ensure any Compensation Order sought is for the correct amount, see [Compensation Orders](#).

Investigation costs

5. The actual costs or a contribution towards costs awarded by the court are payable via the court to the DWP. For further information about when to apply for actual costs and how to calculate these, see [Court Costs](#).

6. If costs are awarded by the court the details will be recorded on the FRAIMS case. see [FRAIMS guidance – Recording the Legal Outcome](#).

Advance warning of prosecution

7. Ministers and the media regularly seek information on many aspects of fraud investigations and results. They are particularly interested in outcomes such as prosecutions, for more information, see [Publicising Investigating Outcomes](#).

Interpreters

8. For cases where an interpreter is required and the defendant is summonsed, or in Police arrest cases where the defendant is bailed for longer than two working days, it is the responsibility of the Court to supply, and pay from central funds, an interpreter for the hearing and for the defendant to notify their needs.

9. To enable the court to do this, the police or other investigating agency, for example, the Department for Work and Pensions (DWP) will, within three working days of the charge or summons, but at least two working days before the hearing, provide the court with all the relevant information, including the name of the interpreter used during the investigation/Interview Under Caution (IUC).

10. In cases where there has been a police arrest and the defendant appears in court up to two working days after being charged, it is for the police or other investigating agency to make the necessary arrangements.

11. Wherever possible the defence and prosecution should engage the services of different interpreters. It is important that an interpreter used at a police station, or during the course of an IUC is not engaged to interpret in the courtroom unless it is not possible to find another interpreter, for example, where the language is rare. In these cases the court and all parties must be notified of the intention to use the same interpreter for the court proceedings.

Welsh Language Act 1993

12. Although the procedures in court proceedings in England and Wales are the same, the Welsh Language Act 1993 enables any legal proceedings in a Welsh court to be taken in Welsh. This may be spoken by any party, witnesses or anyone else who so desires.

13. The court requires prior notice when a case is to be heard in Welsh, as provision of interpreters is needed as per the rules of the court.

14. The Act allows for the provision of the proceedings to be used where there is a connection with Wales and any documents to be in Welsh.

15. Any oath or affirmation taken in Welsh courts may be in Welsh and understood as if it had been administered in English. Welsh interpreters called to interpret by courts are funded by the courts.

16. When a defendant is likely to have their proceedings conducted in Welsh, the prosecution file should be annotated, see [Prosecution File Preparation](#).

05 Court hearings

Attending Court Hearings

1. Counter Fraud Compliance Directorate (CFCD) investigators will not attend court hearings unless they are attending as a Department for Work and Pensions (DWP) witness.
2. Where potential media interest is expected at the sentencing of a claimant, the investigator must ensure that the sentencing date is noted on FRAIMS.
3. The attendance of a nominated media officer should be discussed with the Team Leader (TL) / Higher Investigations Leader (HIL) and decided on a case by case basis.
4. Where attendance is likely to be required, notify the sentencing date to the nominated officer for their attendance at court.
5. For more information, see [02 Media notices](#).

Arrival at court

6. Where the investigator is required to attend the court hearing as a DWP witness they should:
 - attend in good time at the place and date given,
 - refresh their memory of any evidence to be given and read through any statements they have made to the prosecution,
 - take any notebooks and other documents that may need to be referred to when giving evidence,
 - mark relevant pages in their official notebook (N1) with, for example, elastic bands, so that evidence can be located, and
 - remain outside the courtroom until called to give evidence. Do not discuss evidence with other waiting witnesses otherwise it may be thought that their evidence has been influenced.
7. Further information about attending court and the procedures is outlined in [Guidance on Court Etiquette](#).

Uncontested cases

Pleading guilty by post

8. For Department for Work and Pensions (DWP) prosecutions, Magistrates' Courts are minded not to accept postal pleas for offences under the Social Security Administration Act (SSAA) 1992.
9. Some Local Authorities (LAs) use the procedure of accepting postal pleas in accordance with Section 12 of the Magistrates Court Act (MCA) 1980. The court only accepts a guilty plea if it is unequivocal.

Witness fails to attend trial

10. If a witness, having been served with a summons, fails to attend trial the prosecution can apply to the court for a warrant for their arrest.

Non-attendance of the prosecutor

11. In law, a court cannot dismiss a case because a prosecutor has not attended at the hearing. If a court makes a decision to summarily dismiss a case for this reason, it may be challenged by way of a judicial review before the High Court.
12. Local Authorities (LAs) may use non-legal staff for lay presentation under the Local Government Act (LGA) 1972.

Defendant fails to appear

13. Where the defendant fails to appear, the court may either:

- adjourn the case for personal delivery of the summons or court letter when the defendant has submitted an apology acceptable to the Court, for further details, see [Personal service of the requisitions](#)
- proceed in the defendant's absence, for further details see Proving the case in absence
- issue a warrant of arrest.

14. If the case is adjourned the details of the adjournment and any new date for the case must be recorded on FRAIMS, see [FRAIMS guidance – Change to the court hearing date](#).

Proving the case in absence

15. If the defendant has failed to attend the hearing and has been served with the summons and the evidence of the offence is to the court's satisfaction, the case may be heard in the defendant's absence.

16. This is done either by the prosecutor reading out statements served on the defendant or by calling the investigator and other witnesses to give oral evidence.

17. If oral evidence is required and/or the evidence has not yet been served on the defendant, the prosecutor asks the court for an adjournment to enable the attendance of witnesses and the serving of the evidence.

18. At the adjourned hearing, the prosecution witnesses will enter the witness box and give their evidence on oath or affirm, for information on oaths and affirmations.

Requesting arrest warrants

19. Where the case is not adjourned, and proof in absence is not appropriate, the prosecution may apply for an arrest warrant, if the defendant fails to attend.

20. The prosecutor then requests a warrant, which can be with or without bail.

21. The court then passes the warrant to the police to be executed.

22. If the warrant is with bail, the police will arrest the defendant, take them to a police station and order them to attend the court at a date and time fixed by the court where the warrant was granted. This is the normal practice when they have failed to attend for the first time.

23. A warrant without bail is usually granted when a bail warrant has proved ineffective or the defendant has a history of failing to answer to bail.

24. When a warrant without bail is executed the defendant will be arrested and taken into custody by the police and produced before the Magistrates' Court.

25. The Crown Prosecution Service (CPS) is then contacted by the court to enable them to arrange the attendance of a prosecution advocate.

26. If the investigator is informed that a warrant has been executed, or the claimant intends to surrender to bail, they must inform the CPS immediately to enable them to arrange the attendance of a prosecutor.

27. The Warrant Officer is advised of any special features, for example the presence of young children, which might suggest the need to alert the Social Services Department.

28. It is important that the nominated person checks all outstanding warrants every month against departmental records and informs the CPS of any change of address and changes of circumstances so that their records can be noted.

29. The nominated person should also update the warrant holder, who is normally either based at the local police station or court, of the changes and request immediate execution of the warrant.

Applying for withdrawal of warrant Overpayment under £20,000

[Redacted]

31. The subject box in the e-mail must be marked 'Official – Sensitive' in order to comply with the Departments Security Policy. Details of the request to the CPS must be recorded on FRAIMS, see [FRAIMS guidance – Obtaining legal advice](#).

Overpayment exceeds £20,000

32. Where the overpayment exceeds £20,000 in most cases it will not be necessary to take any action and the warrant should not be withdrawn even though it has been outstanding for more than two years.

33. In exceptional cases it may be necessary to seek withdrawal even when the overpayment exceeds £20,000. For example: research reveals that the claimant is currently serving a substantial prison sentence for a serious offence and it would not be in the Departments interests to continue with our prosecution.

34. These cases must be referred to the CPS for advice before a decision to withdraw the warrant is made.

Adjournments and bail

35. If the case cannot be disposed of at the first hearing the case is adjourned to a further hearing, court practices vary on whether the defendant is bailed to the next hearing. If the defendant:

- appears as a result of a warrant being executed
- was bailed by the police to the court hearing or
- appears before the court in police custody in a police arrest case.

36. The court must consider the issue of bail, which could be either conditional or unconditional and whether the defendant is to be remanded in custody. If the case is adjourned the details of the adjournment and any new date for the case must be included on FRAIMS, see [FRAIMS guidance – Change to the court hearing date](#).

37. If the defendant came before the court in police custody or was bailed to the hearing, the prosecution make representations to the court on the issue of bail.

38. Bail may be opposed if there is a strong belief that the suspect will either abscond or will continue to offend whilst on bail.

39. For further details on completion of the Custody Remand application form (PF7), see [Prosecution File Preparation](#).

40. Every defendant has a right to unconditional bail, unless the Magistrates believe that they pose a risk if released unconditionally.

41. The Magistrates would then either remand the defendant in custody or place conditions to their bail. These might include the defendant:

- reporting to a police station at specified times
- remaining at a specific address
- refraining from contacting prosecution witnesses or
- surrendering their passport.

42. The defendant can be bailed to the next hearing unconditionally or conditionally. It is unusual for the prosecution in benefit cases to request that bail be granted subject to conditions, unless it is a police arrest case.

43. If the defendant has been remanded in custody it is likely that the defence solicitor will make an application for bail at the next court hearing.

44. The prosecution would be entitled to lodge arguments against the court granting bail in a fully contested bail hearing and would be entitled to make an immediate appeal against the granting of bail under the Bail (Amendment) Act 1993.

45. The process is very procedural but essentially, the 1993 Act confers upon the prosecution the right to appeal to the Crown Court against a decision by the Magistrates' to grant bail. The prosecution must give oral notice of appeal at the conclusion of the proceedings in which bail was granted, and before the defendant is released from custody.

46. This notice must be confirmed in writing and served on the defendant within two hours after the proceedings have concluded. Pending the appeal the Magistrates' must remand the defendant in custody. The Crown Court must then hear the appeal within 48 hours.

47. Prior consultation by the investigator with the Crown Prosecution Service (CPS) lawyer must have taken place and their authority to object be given. Appeal forms are usually obtainable at the CPS offices within the Court.

48. If conditional bail is thought appropriate, the prosecutor should be informed before the hearing of any well-grounded fear that the defendant might abscond or interfere with witnesses or otherwise obstruct the course of justice.

49. Where bail is refused, the defendant is remanded in custody to the next court hearing.

Requests made for Caution or Administrative Penalty

Requests to consider Cautions

50. Cautions are not offered by the Department for Work and Pensions (DWP) on cases where the offence is committed wholly on or after 1 April 2012, or the period of the offence spans the 1 April 2012.

51. A Caution can still be offered on cases handled after 1 April 2012 where the offence was committed wholly before 1 April 2012.

52. Following the commencement of proceedings, the defence may request that the defendant is offered a Caution as an alternative to prosecution. If the Crown Prosecution Service (CPS) agrees, the case is normally adjourned for the defendant to attend a caution interview.

Request to consider Administrative Penalties

53. Decisions on the suitability of Administrative Penalties (Ad-Pen) are usually administrative decisions and are normally made by the appropriate Team Leader (TL) / Higher Investigations Leader (HIL).

54. If it appears to the CPS that the decision on whether or not to offer an Ad-Pen is flawed, the CPS may be called upon to provide guidance on the matter. Details of the request to the CPS must be recorded on FRAIMS, see [FRAIMS guidance – Obtaining Legal Advice](#).

55. For further information see [Administrative Penalty criteria](#).

56. In cases where the claimant has been served with a requisition after failing to attend an Ad-Pen interview, or has refused to accept the Ad-Pen, the defence may ask for an adjournment, so that a further Ad-Pen interview can be arranged.

57. The court should be advised that the prosecution will not ask for withdrawal of the case until after the appropriate 'cooling off' period has elapsed.

58. If the case is adjourned the details of the adjournment and any new date for the case must be included on FRAIMS, see [FRAIMS guidance – Change to the court hearing date](#).

59. Where the case is adjourned, so that arrangements can be made for the defendant to attend an Ad-Pen interview, it should be agreed on the strict understanding that the defendant attends the re-arranged interview. If they do not, the prosecution will continue.

60. The court should be advised that the length of the adjournment should be sufficient to allow for the appropriate 'cooling-off' period, when an Ad-Pen is to be offered.

61. If the defendant attends the re-arranged Ad-Pen interview and accepts the Ad-Pen, the investigator must inform the CPS of this immediately so that it can make an application to withdraw the case. Details of the request to the CPS must be recorded on FRAIMS.

Prosecution withdrawn

62. Once a case has been withdrawn by the Court following the acceptance of a Caution or Ad-Pen, the Court IT system (Libra) will update the Police National Computer (PNC) status via the Bichard 7 portal.

63. Where a case is withdrawn between obtaining the Arrest Summons Number (ASN) and the requisition being recorded by the court, the police must be informed so the ASN record on the PNC can be removed. This can be done by secure e-mail.

Guilty pleas

64. Uncontested Department for Work and Pensions (DWP) cases are heard as part of a list for other Crown Prosecution Service prosecutions in the Magistrates Court.

65. In the event of the defendant pleading guilty in a Magistrates' Court, the role of the prosecutor is to:

- present a summary of facts which should highlight the period of the offence, amount of the overpayment, motive, aggravating features, such as working under a false name, or obstructive attitude at the Interview Under Caution (IUC) and mitigating features such as a full admission at the earliest opportunity
- hand a copy of the Taken Into consideration (TIC) schedule to the defendant to either accept or decline. It is passed to the Magistrates if accepted. No further action is taken if declined
- hand a copy of the defendant's previous convictions to the defendant or his solicitor. If agreed, these will be handed to the Magistrates
- request a Compensation Order, if appropriate, see [Compensation Orders](#)
- ask for a contribution towards prosecution costs.

66. The defendant or their representative is given the opportunity of explaining why the offence was committed and to put forward mitigating features.

67. The Magistrates either impose a sentence at the first hearing or adjourn the case to enable the probation service to prepare pre-sentence reports so that various sentencing options can be considered.

68. Once the defendant has been sentenced the Magistrates may award a contribution towards the prosecution costs if they feel they are appropriate.

69. If the prosecution wishes to apply for a confiscation order, they must ask the Magistrates to commit the case to the Crown Court for that purpose. For further details, see [Financial Investigations](#).

70. If the Magistrates, having heard the facts, do not believe that their sentencing powers are sufficient they, can send the case to the Crown Court for sentencing.

Not guilty pleas – Summary cases

71. If the defendant pleads not guilty, in accordance with the James Procedure, the Magistrates adjourn the case for a full trial, although a hearing for a Pre Trial Review (PTR) may be appropriate.

72. If the case is adjourned the details of the adjournment and any new date for the case must be included on FRAIMS, see [FRAIMS guidance – Change to the Court Hearing Date](#).

73. If the case met the criteria for publicity, the Media Notice must be updated, for further information, see [Publicising Investigation Outcomes](#).

74. If the original submission was submitted under the process for streamlined file preparation/Anticipated Guilty Plea, the Crown Prosecution Service (CPS) will notify the Digital Case Management Unit (DCMU) by e-mail that the trial file is required within ten working days.

75. The full file must be prepared in accordance with [Preparing the Prosecution File](#).

76. When requesting the full trial file, the CPS will highlight any clear unequivocal admissions and give details of any issued arising from the management of the court case or correspondence which may assist in the preparation of the file.

Witnesses

77. The Crown Prosecution Service (CPS) will notify the investigator in writing, by telephone or by email as soon as a case has been committed to the Crown Court or the suspect has pleaded not guilty in the Magistrates' Court.

78. If the suspect pleads not guilty in a Magistrates Court, the Magistrates will either fix a trial date immediately or adjourn for a Pre-Trial Review (PTR).

79. For full details about notifying witnesses, see [Witnesses required to attend court](#).

Disclosure

80. The Disclosure Officer must ensure that unused material schedules and the Disclosure Officer's report are prepared and sent to the Crown Prosecution Service (CPS) in the prosecution file.

81. If further unused material has come to light since then, that material should be listed and copied, if appropriate, and sent to the prosecuting authority.

82. In the Magistrates' Court, the defendant does not have to serve a defence statement. If the defendant chooses to serve their defence statement, the CPS sends it to the Disclosure Officer, who is required to look at the unused material again in the light of the defence statement.

83. For further details, see [Completing the Disclosure Officer's Report](#).

Pre-Trial Review hearing

84. At the Pre-Trial Review (PTR) hearing, the prosecution confirms who its witnesses are and hand in the witnesses' non-availability so that a trial date can be set. The PTR should also identify the issues for trial.

85. When a date for prosecution is received from the Crown Prosecution Service, FRAIMS must be updated, see [FRAIMS guidance – Change to the Court Hearing Date](#).

Procedure at trial in a Magistrates' Court

86. Once the defendant has been identified and the not guilty plea established the procedure is as follows:

- the prosecution outlines the case against the defendant and then calls each prosecution witness in turn
- after being called and having taken the oath or affirmation each witness will be asked by the prosecution to give their evidence
- the defendant or their representative can cross-examine the prosecution witness. The prosecution can then re-examine and clarify any points raised in defence cross-examination
- at this stage the defence can make an application to the court that there is no case to answer. If the court is satisfied that the evidence of the prosecution does not make out a 'prima facie' case it can dismiss the case. If the defence's application is unsuccessful the defence decides whether to call its witnesses, which usually includes the defendant
- cross-examination of each defence witness can then take place by the prosecution. They may be re-examined by the defence
- the prosecutor sums up the case for the prosecution

- the defendant or their representative sums up the case for the defence
- the bench decides, usually having retired, whether the case has been proven or not
- if the case is found proven, the defendant is convicted, any agreed admissible previous convictions are read out or handed into the court and the defendant is sentenced, or the case is adjourned for a Pre Sentence Report (PSR). If the court feels that it has insufficient sentencing powers it can send the case to the Crown Court for sentence. Any compensation and costs are also dealt with at time of sentence
- in Department for Work and Pensions (DWP), where the Financial Investigation Unit (FIU) have identified substantial assets and it appears likely that a confiscation order is to be sought, the prosecution requests that the case be committed to the Crown Court for that purpose
- if the defendant is found not guilty, they will be discharged and are free to leave. However, the defendant can seek costs before leaving court. This will be for the court to decide.

Not guilty cases – Either way offences

87. If, following the charge being read out to the defendant at the Magistrates Court the defendant either fails to indicate a plea or pleads not guilty a mode of trial hearing takes place and the prosecuting authority assumes that the case is to be contested.

The Mode of Trial procedure hearing

88. The Mode of Trial Hearing is held in the Magistrates' Court to decide whether the case is to be tried at the Magistrates' Court or the Crown Court.

89. Following an indication of a not guilty/no indication of plea the prosecution and defence each make representations as to the most suitable venue for trial, providing the court with a brief outline of the case.

90. If the prosecution's view is that the Magistrates' Court is the appropriate venue for trial and the defence agree, the Magistrates usually decide to hear the trial, although they can decide to commit the case to the Crown Court of their own motion.

91. If the prosecution's view is that the Crown Court is the appropriate venue for trial and the defence wish the trial to be heard at the Magistrates' Court, the Magistrates determine the appropriate venue.

92. The Magistrates have to take the following into account:

- whether the offence is serious
- whether their sentencing powers are adequate to reflect the seriousness of the offence
- any other matters which make the case more suitable for trial in the Crown Court, for example, if the defendant is to be tried by the Crown Prosecution Service (CPS) in Crown Court for another matter, our offences could be dealt with at the same time.

93. In making its decision the court has regard to the mode of trial guidelines and Section 19 of the Magistrates Court Act. These guidelines suggest that organised fraud on a large scale and frauds, which are substantial and carried out over a long period of time are usually more suitable for Crown Court disposal. At present a case with an overpayment of £35,000 or more is regarded by Department for Work and Pensions (DWP) as a 'substantial' fraud meriting Crown Court disposal.

94. Even if the overpayment is less than £35,000 the Magistrates may decide that they do not have sufficient sentencing powers and commit the case to Crown Court.

95. In a triable either way offence the defendant may elect to be tried by the Crown Court, notwithstanding the fact that the prosecution or the Magistrates' Court may have a contrary view on the matter. In such a case the Court must adjourn the matter for committal for trial at the Crown Court.

96. If the Magistrates decide, or the defendant elects trial at the Crown Court the case is usually adjourned for committal.

97. For further details, see Magistrates decline jurisdiction/defendant elects Crown Court.

Magistrates decline jurisdiction/defendant elects Crown Court

98. If the case is to be committed to the Crown Court for trial, the prosecuting authority usually requests an adjournment for committal to take place but the length of adjournment is for the Magistrates to decide.

99. At the committal the prosecution has to hand all its statements to the court. If it does not, it is not able to rely upon this evidence at trial. The evidence takes the form of statements and exhibits and must comply with all legal requirements. For further details, see [Obtaining Evidence Statements](#).

100. If the case is adjourned the details of the adjournment and any new date for the case must be recorded on FRAIMS, see [FRAIMS guidance – Change to the Court Hearing Date](#).

Collating and serving the evidence

101. Counter Fraud Compliance Directorate investigators must understand that the obligation to produce and prepare the evidence is theirs and not the prosecuting authority.

102. Witnesses should be informed of any requirement to bring original documentation to court, for example wage records, work rosters and signing in sheets.

Committal hearing

103. In the majority of cases the committal is uncontested and involves the prosecution handing in to the court all of the statements that are to be used to prove the case.

104. The defendant has a right to contest committal and ask the court to determine, having read through the statements, whether the prosecution's evidence is sufficient to put to the accused at trial. If the defendant wishes to contest committal they must inform the prosecuting authority of this, who in turn informs the Counter Fraud Compliance Directorate.

105. If the Magistrates decide to commit the case to the Crown Court the Clerk to the Justices informs all parties in open court of the date of the next Crown Court hearing. In the proceedings, this hearing is called the Plea and Directions Hearing (PDH).

Post committal action

106. The prosecution must as soon as reasonably practicable after committal and in any event prior to the PDH, undertake prosecution disclosure.

107. The Disclosure Officer must provide the prosecutor with updated schedules and copies of primary material if any unused material has come to light since the disclosure report and schedules were compiled,

108. Between committal and the PDH the prosecuting authority drafts an indictment and serves it on the Crown Court and the defence. An indictment sets out the charges upon which the defendant is to be tried at the Crown Court.

The Plea and Directions Hearing

109. When the case is first heard at the Crown Court the hearing does not take the form of a trial. The defendant is asked for their plea to the charges in the indictment.

110. If the defendant enters a guilty plea at the Plea and Directions Hearing (PDH) the judge can sentence or adjourn for sentence. If the defendant pleads not guilty the case is adjourned for trial.

111. At the PDH the defence is asked to confirm the issues for trial.

Post Plea and Directions Hearing action

112. If a not guilty plea is entered at PDH the defence is required to serve a defence statement on the prosecution authority.

113. The prosecution authority sends a copy of the defence statement to the Disclosure Officer. The Disclosure Officer reads the defence statement and re-examines the unused material schedules in order to determine whether, in light of what is said in the defence statement, there is any material which might reasonably be capable of undermining the case for the prosecution against the accused or assisting the case for the accused.

114. The Disclosure Officer is required to make a fresh certification on the Disclosure Officer's report. For further details on completing the Disclosure Officer's report after receiving a defence statement, see [Completing the Disclosure Officer's Report](#).

115. The prosecutor, usually Counsel, undertakes a further review of the evidence and the investigator may be asked to provide additional evidence in readiness for the trial. The investigating officer may also be required to attend a conference prior to trial.

116. If, at any stage prior to the trial, the Disclosure Officer or investigating officer becomes aware of any matters which may undermine the prosecution's case or assist the defence, they must inform the prosecuting authority immediately of those matters.

117. A date for trial is set by administrative staff in the Crown Court and the prosecuting authority informs the investigating officer of a trial date when it is known.

118. As soon as the trial date is known the investigator in consultation with the Crown Prosecution Service (CPS), must inform all of the witnesses required to give evidence and ask them to bring with them to court on the date of trial any documents produced by them in their statements and any documents required by the prosecution. They must also update FRAIMS with the details of the court date see [FRAIMS guidance – Recording the Court Hearing Date](#).

119. If any witness cannot attend, the investigator must inform the prosecution authority immediately to enable the court to rearrange a trial date. The less notice given to the court, the less willing it will be to move the date of trial.

Mentions

120. If an issue arises that needs to be dealt with prior to the trial, the court usually lists the case for mention. At mention hearings only the defence and prosecution Advocates and CPS representatives are usually required, although sometimes the investigating officer may also need to attend. As a general rule, neither prosecution nor defence witnesses are required to attend. CPS discusses what is required with the investigating officer prior to the mention.

Retrieving the Interview Under Caution recording

121. The recording of the Interview Under Caution (IUC) should be retained at the Counter Fraud Compliance Directorate site, or in police arrest cases at the Police station, unless either the court or CPS request that the master tape / Compact Disc (CD) be produced at court.

Procedure at trial in a Crown Court

122. When the investigating officer attends Crown Court as a witness they must report to the Usher/Witness Service representative.

123. The investigator must not approach the prosecutor. They should direct any questions they may have about the trial to the prosecution representative or the Witness Service representative at court. Neither the investigator nor any other witness should discuss their evidence with the prosecutor unless it is new evidence that has a bearing on the case.

124. All the witnesses must wait outside the court as directed by the Court Usher, until called to give evidence.

125. The procedure for trial in Crown Court is as follows:

- defendant stands in the dock. The indictment is read to the defendant and the defendant asked how he/she wishes to plead
- jury is sworn in if the defendant pleads not guilty
- prosecution opens its case by means of an opening speech

- prosecution witnesses are called to give evidence
- witnesses are examined by the prosecution, Examination in Chief
- cross-examination by the defence
- re-examination by prosecution, if necessary.

126. After the prosecution has presented their case there may be a submission by the defence of no case to answer. If so, the jury is sent out and the defence makes representations to the judge on the basis that the prosecution's evidence does not establish a 'prima facie' case against the defendant. If that is successful the defendant is discharged.

127. If unsuccessful, the jury are called back in and case continues as follows:

- the defence opens its case by way of a speech
- defence witnesses are called to give evidence
- witnesses are examined by the defence
- cross-examination of each defence witness by the prosecution
- re-examination by the defence if necessary
- prosecution addresses the jury, closing speech
- defence addresses the jury, closing speech
- judge sums up and directs the jury on points of law
- jury retires
- if found not guilty the defendant is discharged / acquitted
- if found guilty / convicted, antecedents and any admissible agreed and relevant previous convictions are read
- the judge comments and either sentences or adjourns sentencing pending the completion of Pre-Sentence Reports (PSRs) by the Probation Service.

Court proceedings – indictable only offences

128. An Indictable Only offence, for example conspiracy to defraud, has to be heard in the Crown Court.

129. Although the first hearing, usually arranged through the police in police arrest cases, is conducted in the Magistrates Court, the matter is usually transferred immediately by the Justices to the Crown Court for a 'preliminary hearing' in accordance with section 51 of the Crime and Disorder Act 1998.

130. Magistrates Courts have Crown Courts that they forward their cases to. However a case can be sent under section 51 to anywhere within the jurisdiction of the Central Criminal Court. In this way defendants can be transferred to the district of their offending if they live elsewhere.

131. The date of the preliminary hearing is fixed at the Magistrates Court. The date is subject to the question of whether the defendant is on bail or is remanded into custody.

132. At the preliminary hearing at the Crown Court, the judge directs the timetable for the service of:

- prosecution papers
- the indictment; and
- disclosure.

133. Additionally, a date for the Plea and Direction Hearing (PDH) is fixed. The PDH is normally within six to eight weeks following the preliminary hearing and the service of prosecution papers by the CPS is usually two weeks before the PDH date.

134. It should be noted that representation at the preliminary hearing at the Crown Court can be the same as at the Magistrates Court, either a solicitor or Counsel can be instructed.

135. Any subsequent representation at PDH to the conclusion of the case will be by Counsel or by a solicitor with Higher Court Advocacy rights.

Stopping proceedings

136. There are three ways in which proceedings may be stopped. These are:

[Redacted]

137. The stopping of proceedings is an exceptional step, which requires careful consideration, as even though there may be, in certain circumstances, an option to recommence proceedings, the defence may be able to claim that to do so constitute an abuse of process.

138. The decision to stop proceedings can only be made by the Crown Prosecution Service (CPS).

Withdrawing an Information or Charge

139. An Information or Charge may be withdrawn at any time prior to the entry of a plea

Staying proceedings

140. Staying proceedings offers a similar procedure to withdrawing except that it can be done at any stage during criminal proceedings including after the entry of a plea. Once stayed, proceedings are rarely recommenced

Offering no evidence

141. Where the CPS comes to the decision that there is no realistic prospect of a conviction the only way to stop proceedings following a plea is by offering no evidence. In this case, the charges are dismissed and the defendant acquitted. Once this is done the defendant cannot be put on trial for the same offence

Notional assessment of benefit

143. For Department for Work and Pension (DWP) prosecutions, a Judge or Magistrate may order that a notional assessment is obtained for sentencing purposes and adjourn the case to enable this action to be carried out.

144. The Department's stance on this is that it cannot give a definitive decision on entitlement to benefits without an actual claim supported by information required for the correct decision to be made. Claimants have no entitlement to benefits which they have not applied for. The overpayment figure is the amount that has to be repaid. This follows judicial decisions in the case of *DWP v Michael Richards* and *Larusai v The Secretary of State for Work and Pensions*.

145. Notwithstanding any of the above, demands for notional calculations may be made.

146. For further information about notional assessments and abatements see [The Overpayment Recovery Guide \(link is external\)](#).

147. However, a court is entitled to sentence on the degree of criminality in the case and can take the notional calculation into account for the purpose of mitigation in accordance with the decision of *Regina v Parmer*.

148. LAs routinely apply underlying entitlement in all Housing Benefit/Council Tax Benefit (prior to 1 April 2013) (HB/CTB) cases and will conduct a notional assessment of benefit.

How to obtain a notional assessment

DWP Benefits

149. The investigator or nominated officer should make a written request to the appropriate benefit team for a notional assessment on the [NOT 1 \(link is external\)](#) which must be sent with the [NOT1A \(link is external\)](#). The NOT1A should be completed and returned by the person calculating the assessment within two weeks of the request or not later than seven days prior to the next court hearing date.

150. It is important that the return of the NOT1A is closely monitored because if the information is not available at the next hearing the court would ask for an explanation.

151. The details of the completion and issuing of the appropriate forms must be recorded as an activity on FRAIMS and enables the monitoring of the return of the forms from the appropriate benefit team, see [FRAIMS guidance - Details sent to Benefit Reassessment Team](#).

Tax Credits

152. Due to data protection and resource issues, Her Majesty's Revenue and Customs (HMRC), will only provide a notional Tax Credit assessment when specifically ordered to do so by the court.

153. The defence must request a written order from a High Court such as a Crown Court which is clearly marked as such, stamped with the court's seal and signed by the presiding judge. These must also:

- be made against HMRC as a whole and
- state that HMRC are ordered to provide a tax credit calculation by using confidential data obtained from HMRC's various systems; such as, PAYE, SA, NIRS2, TBS, Tax Credit and Child Benefit, and share it with the prosecution, defence and the court.

154. The defence must ensure that the request for the calculation, including the Court Order and copy of the DWP overpayment calculation, QB16 or equivalent, is sent to HMRC within five working days of the court order being made.

155. The defence should be made aware of the wording of the written order at the first hearing if this is possible.

156. If a court directs that a calculation is required, but the order does not conform to the criteria set out above, the defence must provide signed and dated written authorities from the defendant and any partner with their request stating that HMRC has authority to provide a tax credit calculation including utilising their confidential data obtained from its various computer systems; for example, PAYE, SA, NIRS2, TBS, TAX Credit and Child Benefit to be shared with the prosecution, defence and the Court.

157. The defence should email their request to **[Redacted]** providing the original court order, or details of the request made by the Court and written authorities from the defendant and any partner and a copy of the DWP overpayment calculation, QB16 or equivalent, are posted by the Defence to:

[Redacted]

158. Alternatively, requests can be submitted by email to:

[Redacted]

159. The request must be signed and dated by the person making the request.

160. If requested by HMRC, the investigator or nominated officer should provide HMRC with sufficient information regarding the household in order to allow the notional tax credit calculation to be produced.

Working Family Tax Credits

161. Where it is identified that a notional Working Family Tax Credit (WFTC) calculation is relevant to the period 05 October 1999 to 08 April 2003, the calculation will be undertaken by **[Redacted]**

162. HMRC will contact the NW Business Support Team if a calculation is required and the NW Business Support Team will respond direct to HMRC.

163. Investigators should make all requests direct to HMRC, following the procedure to obtain notional Tax Credit calculations, even if it is identified in advance that a notional calculation to WFTC will be required.

06 Action after the court hearing

Recording the outcome of the hearing

Defendant found guilty

If the defendant is found guilty, the Crown Prosecution Service (CPS) will notify the Digital Case Management Unit (DCMU) of the outcome of the court hearing.

The DCMU will be responsible for recording the details of the hearing on the Fraud Referral and Intervention Management System (FRAIMS) case, see [FRAIMS guidance – Notification of Court Hearing result](#). Consider any appeal against the conviction the defendant makes. An automatic activity will be sent to the case owner once the outcome is recorded. On receipt of the activity case closure action can be considered.

The file can then be noted with a destruction date and filed. Files should be sent to the remote storage unit, if used in your area, not less than 28 days after the date of conviction to allow for an appeal to be lodged.

Case dismissed or defendant found not guilty

If the court dismisses a case or the defendant is found not guilty, DCMU will record details on the FRAIMS case.

Record details of any order for costs against Department for Work and Pensions (DWP) on the FRAIMS case.

Single Fraud Investigations

Following the court hearing, notify the Local Authority (LA) of the case outcome by completing part 8 of the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form) and email it to the LA Single Point of Contact (SPOC).

If the suspect is found guilty, apply [Loss of Benefit Provisions](#).

Decision to appeal

If the decision is to appeal, the prosecuting authority has very little time to prepare the case and therefore need all of the information of what transpired immediately.

The prosecuting authority includes in the appeal papers:

- the reason for the dismissal
 - particulars of any order for costs against DWP or Local Authority (LA)
 - the grounds on which the prosecutors allege the decision made by the court was incorrect
- There is no automatic right to appeal, the prosecution can only appeal when the courts decision is wrong in law, however this is rare.

Forward any applications for payment received from the court to the relevant prosecuting authority.

Recording court hearing outcome on Police National Computer

The court will automatically notify the police of the hearing result, therefore it is not necessary for Counter Fraud Compliance Directorate (CFCD) to do so.

Loss of Benefit Provisions

Following the first successful prosecution, take the following:

- if part or the [whole of the offence occurred prior to 1 April 2010](#) a [TS1 \(link is external\)](#)/[TS1W \(link is external\)](#) must be sent to the convicted person
- if the whole of the offence occurred on or after 1 April 2010 the convicted person must be sent a [LBS1\(P\) \(link is external\)](#)/[LBS1PW \(link is external\)](#)

- if the whole offence occurred on or after 1 April 2010 issue a [TS2\(JCP\) \(link is external\)](#)/[TS2\(PDCS\) \(link is external\)](#) to the appropriate benefit processors to impose a One Strike Loss of Benefit (LOB) penalty
- if the accused has been convicted for a second time within five years a [TS2\(JCP\) \(link is external\)](#)/[TS2\(PDCS\) \(link is external\)](#) must be issued to the appropriate benefit section to impose a Two Strike LOB penalty and a [TS3 \(link is external\)](#)/[TS3W \(link is external\)](#) letter to the convicted person
- If the [whole offence occurred on or after 1 April 2013](#) the convicted person must be sent a [LOB\(P\)/LOB\(P\)W \(link is external\)](#)
- If the whole offence occurred on or after 1 April 2013 issue a [LOB1 \(link is external\)](#) to the appropriate benefit processors to impose a LOB penalty

For guidance on the full Loss of Benefit process including information on how and when to issue appropriate correspondence, see [Loss of Benefit Provisions](#).

Deportation of the defendant

If at the court hearing the suspect is to be deported, this must be recorded on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS Guidance – Deportation – Post Court Hearing](#).

Guidance on court etiquette

Court etiquette

1. Whenever the Justices or Judge enter or leave the courtroom, all should stand and bow.
2. If addressed by the Justices or Judge the investigator should stand before answering.
3. The status of the Judge can be ascertained from the Court list of cases for hearing. The following modes of address are to be used:
 - Clerk - Sir or Madam
 - Justices - Individually – Sir or Madam; Collectively – Your Worships
 - District Judge - Sir or Madam at Crown Court/Magistrates Court;
 - Deputy Circuit Judges or Recorders at Crown Court - Your Honour
 - Circuit Judge - Your Honour.
4. If you are unsure how to address the Judge/Magistrate/District Judge, ask the usher beforehand.

Contempt of court

5. Anyone who wilfully insults the Justices, any witness or Officer in the Court or any Advocate having business in court or who wilfully interrupts the proceedings of the court or misbehaves in court may be fined or imprisoned.

6. The following may be construed as contempt:

- showing verbal disrespect to Court Officials
 - using a tape recorder or camera or making any sketches inside the court
 - making a telephone call or allowing a mobile telephone or pager to ring
 - eating, smoking, chewing gum or drinking, other than water when provided.
7. In addition, it is considered disrespectful to dress casually or roughly.

8. In Crown Court, outside the confines of the courtroom, the investigator should have no contact whatsoever with members of the jury.

9. If a juror for any reason approaches the investigator they must explain that they may not talk to any member of the jury and report the approach to the representative from the Crown

Prosecution Service (CPS). Failure to do so may result in suspicion that the investigator is attempting to influence that juror.

Attending court as a witness at trial – Some practical tips

10. The investigator should:

- attend in good time at the place and date given, if unable to attend because of illness, a medical certificate should be obtained and sent to the prosecution authority immediately
- refresh their memory of any evidence to be given by reading any statements made and ensuring that they understand and can explain any documents exhibited by them
- identify relevant pages in their official notebook (N1), with elastic bands for example, so that evidence can be located when called upon. Do not mark or highlight original exhibits but use tabs or 'post it' stickers
- ensure that any original exhibits retained by them are all present and in the correct order
- ensure that a copy of the working tape is present.

Giving evidence in court

11. Remain outside the courtroom until called to give evidence. Do not discuss evidence with other prosecution witnesses waiting, otherwise it may be thought that their evidence has been influenced and so tainted.

12. Stand in the witness box when called. If the witness finds standing difficult, they may ask if they can sit down.

13. Make an affirmation or take the oath. With very few exceptions, the evidence of any witness must be sworn to be valid. The usher asks the Investigator's religion. If none, they are asked to affirm by reading the following:

"I, [name] do solemnly, sincerely and truly declare and affirm that the evidence which I shall give shall be the truth, the whole truth and nothing but the truth".

14. Otherwise, they will be asked to take in their right hand the holy book of their particular faith, for example; New Testament for Christians, Old Testament for Jews, Koran for Muslims, and read the following:

"I swear by Almighty God that the evidence I shall give shall be the truth the whole truth and nothing but the truth".

15. When all official witnesses give evidence before the court, they are expected to demonstrate a level of professionalism and expertise in respect of the matters about which they give evidence.

16. The investigator, when giving evidence, should be aware that the court expects them to have a working knowledge of the conditions of entitlement to benefit. If they do not, the court may question how an officer can examine alleged irregularities of a system they do not understand. However, the investigator should not speculate, they should be prepared to say if they do not know an answer to a question.

17. The point about professionalism and knowledge applies in respect of all witnesses, for example Decision Makers, supervising officers, visiting officers and employers, who are called to give evidence in trials.

Prosecution's Examination-In-Chief – Practical tips

18. The Prosecutor takes each witness through any statement they have made, any relevant action taken or knowledge they may have in relation to the case.

19. The witness should listen carefully to the question and ask the Prosecutor to be more explicit or to repeat the question if it is not understood or misheard. The witness should ensure that they answer the question actually asked and not elaborate. It is for the Prosecutor and not the witness to build the case against the defendant.

20. If the investigator's evidence consists of an Interview Under Caution (IUC), this is put to the court in full, unless the prosecution and defence have agreed to the exclusion of parts of it. Sometimes the tape is played to the court otherwise the investigator may be required to read the entire transcript or to play the part of the defendant in answer to their questions as read by the prosecutor. Do not attempt to imitate the accent of the defendant.

21. The witness may also be shown exhibits/statements they have previously given and be asked to confirm the accuracy of their content.

22. When giving evidence in the Magistrates' Court, direct all the answers to the Magistrates or Judge and speak distinctly and clearly. Do not speak too quickly, as the clerk, Magistrates or Judge may be trying to take notes of what is being said.

23. In the Crown Court, all responses, when under examination in chief or cross-examination, should be directed to the jury. If specifically addressed by the Judge, the witness should directly respond to the Judge.

24. With the permission of the court, witnesses may refer to a document, for example, the official notebook (N1), in order to refresh their memory provided that the document:

- was made or adopted; this could occur in surveillance operations where one officer records the events and the others adopt them as their own or events verified by a witness
- is the original document or a copy based on an original made when the facts were fresh in the author's memory
- is produced for inspection by the court/defence.

Cross-examination at trial

25. After the prosecutor has questioned the witness, they are subjected to 'cross-examination' by the defence. If there is more than one defendant and each is presented separately, they may be questioned by each defence Advocate in turn.

26. The purpose of cross-examination is to weaken the witness's evidence by:

- highlighting inconsistencies
- challenge the witness's credibility by questioning them about their knowledge of the law and Codes of Practice;
- their powers and opportunities of observation and memory and
- if relevant, previous convictions/disciplinary proceedings for misconduct.

27. Leading and multiple questions are permitted and may be deliberately used to elicit an answer that is favourable to the defendant or to cause the witness to become flustered.

28. Under no circumstances should witnesses attempt to answer a question about which they have no knowledge. If you do not know the answer, say so.

29. Although the defence may suggest that the witness's evidence is inaccurate and the tone of the questioning may border on rudeness or aggression, do not show anger or become upset. This is a tactic to unnerve or unsettle the witness. If the cross-examination oversteps the mark, the Justices/Judge intervenes.

30. The Justices/Judge may also ask the witness questions to clarify a point.

Re-examination at trial

31. After cross-examination, the witness may be re-examined by the prosecution on any matters arising in cross-examination, which were not brought out 'in chief'. It is often used to clarify what the witness meant in cross-examination, if they said something, which it seemed that they did not intend, or which was ambiguous.

Court Hearings (Scotland)

00 Introduction

Introduction

1. This section sets out the procedures to be followed by Department for Work and Pensions Counter Fraud Compliance Directorate (CFCD) investigators once the prosecution file has been prepared and is to be submitted to the Procurator Fiscal (PF).
2. In Scotland, responsibility for the prosecution rests entirely with the PF investigators are not normally required to attend court, unless cited as a witness.
3. The Central Prosecution Team (CPT) takes responsibility for liaison with the PF.
4. Witnesses must attend Court if cited, unless a medical certificate is produced 'on soul and conscience'. This certificate has to be produced by a medical practitioner and certifies unfitness to attend court.
5. Evidence for the defence is led in the same way as for the prosecution.

Advance warning of prosecution

6. Ministers and the media regularly seek information on many aspects of fraud investigations and results. They are particularly interested in outcomes such as prosecutions, for more information, see [Publicising Investigation Outcomes](#).

01 Sheriff Courts procedures

Sheriff Court

1. There are three parts to the Sheriff Court procedure. These are the:
 - Pleading Diet
 - Intermediate Diet and
 - Trial Diet.
2. When a date for the Pleading Diet is received from the Procurator Fiscal (PF), create an activity on the FRAIMS case to record the details of the hearing and set a 'Due Date' for the Pleading Diet, see [FRAIMS guidance – Recording the Court Hearing Date](#).

Pleading Diet

3. The Pleading Diet is the first hearing. No evidence is led and no witnesses are called. The accused is called upon to plead and may do one of the following:
 - take a plea to the relevancy or competency of the complaint
 - plead Guilty or

- plead Not Guilty.
4. The Sheriff deals with any objections before the accused pleads to the charge

Plea to relevancy/competency

5. If the accused takes a plea to the relevancy or competency of the complaint a Diet of Debate is normally fixed. No witnesses are usually cited for this, as it is a legal argument. After the Debate, the case is either dismissed or the accused is called upon to plead and the procedure is as if the plea of guilty or not guilty had been tendered.

Plea of Guilty

6. If the accused pleads Guilty, the:

- Procurator Fiscal (PF) lays before the Sheriff the notice of penalties and previous convictions and explains to the Sheriff the circumstances of the offence
 - defence then has the opportunity to address the Sheriff in mitigation
 - Sheriff pronounces sentence, adjourns the case or defers sentence to a later date.
7. The Sheriff often defers the sentence to give the accused an opportunity to repay money wrongfully obtained.

8. The accused may also plead guilty at any stage in the procedure until the Sheriff has pronounced his verdict.

9. If the case is adjourned the details of the adjournment and any new date for the case must be included on FRAIMS, see [FRAIMS guidance – Change to the Court Hearing date](#).

Plea of Not Guilty

10. If the accused pleads Not Guilty, two Diets are fixed. The:

- Intermediate Diet and
- Trial Diet.

Intermediate Diet

11. This is a procedural Diet that the accused must attend. It takes place before the Trial Diet but no evidence is led and no witnesses are cited.

12. It is a mandatory Diet, introduced by the Criminal Procedure (Scotland) Act 1995 to try to focus on the issues before the Trial Diet.

13. When a date for the Intermediate Diet is received from the Procurator Fiscal (PF), create an activity on the FRAIMS case to record the details of the hearing and set a 'Due Date' for the Intermediate Diet, see [FRAIMS guidance – Recording the Court Hearing Date](#).

14. At the Intermediate Diet the following may occur. The:

- accused may plead Guilty. If the accused changes their plea to one of 'Guilty', the Court follows the same procedure as for a plea of 'Guilty' given at the Pleading Diet
- Trial Diet may be adjourned or
- accused may maintain their plea of Not Guilty and the case proceeds to trial.

15. If the case is adjourned the details of the adjournment and any new date for the case must be included on FRAIMS, see [FRAIMS guidance – Change to the Court Hearing date](#).

16. The Central Prosecution Team (CPT) will ascertain if there is an Intermediate Diet in the case and if so, when. Once determined, the PF should be contacted to establish if the matter is still proceeding to trial.

17. When a date for the Trial Diet is received from the PF, create an activity on the FRAIMS case to record the details of the hearing and set a 'Due Date' for the Trial Diet.

Trial Diet

The plea of the accused

18. At the Trial Diet, the Sheriff asks the accused to confirm their plea

Not Guilty plea

19. If the plea remains one of 'Not Guilty', the:

- evidence for the prosecution is led
- Procurator Fiscal (PF) examines witnesses after they have taken the oath or affirmed
- defence cross-examines any witnesses they want to question and
- PF can re-examine a witness on any matter brought to light by cross-examination.

20. Witnesses are cited to attend to give evidence at trial. After the prosecution has led all their witnesses and closed their case, the defence may make a submission of 'No case to answer'. If the Sheriff upholds this submission, the accused is acquitted.

21. If the submission is repelled, the defence may or may not lead evidence. Thereafter the:

- PF addresses the Sheriff. The onus is on the prosecution to prove the offence was committed beyond reasonable doubt
- Defence solicitor addresses the Sheriff. The defence always speaks last
- Sheriff then delivers his verdicts, which may be:
 - Guilty
 - Not Guilty or
 - Not Proven.

22. Both the verdicts of Not Guilty and Not Proven are verdicts of acquittal and the accused cannot be tried again for the same offence.

23. If the accused is found Guilty, the procedure is the same as if the accused had Pled Guilty, except that the PF may not address the Sheriff on the circumstances of the offence, as he has heard the evidence. The Defence Solicitor normally addresses in mitigation.

24. It should be noted that this is the procedure relative to proceedings in the Sheriff Court at summary level. Proceedings on Indictment, either before a Sheriff and Jury or before a Judge and Jury at the High Court, follow a different procedure:

- there are no opening speeches at the Trial Diet
- witnesses are excluded from the Court until they have given their evidence
- after having given evidence, witnesses do not leave the Court until given permission to do so. The Sheriff directs a witness as to whether they need to remain in Court.

02 Precognition

Precognition

1. The Lord Advocate for Scotland has instructed Procurator Fiscals (PFs) that they must be as helpful as possible in advising the defence of the strength of the Crown case.

2. Although the defence is given a full account of all the evidence available, they are entitled to seek factual information from any prosecution witness. Therefore, in a case that goes to trial they may wish to contact witnesses to find out about the testimony that the witnesses can give.

3. If possible, when a request is received from a defence solicitor, a meeting between the investigator and the defence solicitor should be arranged.

4. It would be wrong for a public servant to adopt an un-cooperative attitude, for example by offering a difficult place or time for the meeting.

5. When the discussion with the defence takes place, witnesses must not supply written statements, nor offer copies of the statements they provided to the PF.

6. A witness is not required to submit any written statement to the defence. Unless specifically requested to do so by the PF, witnesses should not supply a copy of their formal statement.

7. Witnesses should not offer opinions or speculate on matters outside their knowledge. Defence questions should be specific and witnesses should not refuse to answer any reasonable questions. If the appropriate response is, "I do not know", investigators should say so.

8. Witnesses must not deliberately mislead the defence agent or fail to correct a misunderstanding that the defence solicitor may have taken from what has been said. A concise and clear account of the evidence may lead to a guilty plea being submitted.

9. Witnesses should do all they can to prepare themselves before speaking to defence agents. The first contact with a witness may determine to a large extent the attitude of the defence when the investigator appears in the witness box. A clear and positive response to any questions during defence precognition may help to prevent unnecessary cross-examination in court.

10. The defence should not cross-examine a witness during a defence precognition.

11. If the witness feels that the defence solicitor is testing their evidence by, for example, repeatedly asking about a particular incident, the witness should say, "I have already answered that question" and refuse to discuss the matter further.

12. Care should be taken in this and witnesses should ensure that they have given as full an account as is necessary to convey a clear understanding of the point at issue.

13. If discussing a case jogs the memory of the witness and it becomes apparent in the course of such an interview that the original statement to the PF could usefully be expanded, a supplementary statement must be prepared.

14. A summary of the interview with the defence solicitor must be recorded on FRAIMS. See FRAIMS guidance: [Claimant attends the interview](#) and [Effective visit](#).

03 Attending court hearings

Attending court hearings

1. Counter Fraud Compliance Directorate (CFCD) investigators will not attend court hearings unless they are attending as a Department for Work and Pensions (DWP) witness.

2. Where potential media interest is expected at the sentencing of a claimant, the investigator must ensure that the sentencing date is noted on FRAIMS.

3. The attendance of a nominated media officer should be discussed with the Team Leader / Higher Investigations Leader and decided on a case by case basis. Where attendance is likely to be required, notify the sentencing date to the nominated officer for their attendance at court.

4. For more information, see [02 Media notices](#).

Arrival at court

5. This guidance is for Department for Work and Pensions (DWP) who are asked to give evidence in a DWP fraud case. It relates mainly to Sheriff Court hearings. Give a copy to any member of staff required to attend court hearings on behalf of the Department.

6. In general, the main requirement of any officer called as a witness is to answer questions put to them honestly. When appearing in court, follow the rules, procedures and advice listed below.

7. If these rules are followed, staff will:

- not feel intimidated
- not show unseemly emotions and
- give helpful and honest advice.

8. If a member of staff has to attend court as a witness, follow the instructions outlined below and in [Guidance on Court Etiquette](#).

9. In addition, the Procurator Fiscal (PF) service includes a witness information leaflet with the citation.

10. The main requirement of any officer, Counter Fraud Compliance Directorate (CFCD) investigator or benefit staff, called as a witness is to answer honestly any questions.

11. The investigator should:

- attend in good time at the place and date given. If unable to attend because of illness, a medical certificate and a letter from a doctor provided on “soul and conscience” should be given to the PF. This is because it is a criminal offence to fail to appear in court when cited without a reasonable excuse
- refresh their memory of any evidence to be given and read through any statements that have made to the prosecution
- take any notebooks and other documents that may need to be referred to when giving evidence
- mark relevant pages in their official notebook (N1) with, for example, elastic bands, so that evidence can be located, and
- remain outside the courtroom until called to give evidence. Do not discuss that evidence with other waiting prosecution witnesses, otherwise it may be thought that their evidence has been influenced and so tainted
- avoid appearing in casual clothes as the court may interpret this as disrespectful.

12. If a witness is unable to attend due to illness, the PF should be advised immediately. A medical certificate will almost certainly be required. However, a letter from a doctor confirming “on soul and conscience” that they are unable to attend at court to give evidence will probably also be required. This is known as a ‘soul and conscience’ letter and may be requested by the PF.

13. It is a criminal offence to fail to appear at court as a witness when cited without a reasonable excuse, as stated in the Criminal Procedure (Scotland) Act (CP(S)A) 1995 c.46, section 155. The witness may also be found in Contempt of Court. The case may proceed without the evidence of the witness. If, however, they are essential to the proof of the case, it may be adjourned or ‘part heard’ to allow the evidence to be led.

The accused fails to appear

14. If the accused fails to appear at a Trial Diet:

- the trial may be adjourned to another date or
- a warrant is issued for the accused’s arrest.

In both cases the trial will not proceed.

15. If the case is adjourned the details of the adjournment and any new date for the Trial Diet must be included on FRAIMS, see [FRAIMS guidance – Change to the Court Hearing date](#).

16. The Procurator Fiscal (PF) makes whichever motion he sees fit to the court. The Sheriff then decides accordingly. If the trial is to be adjourned to another date, witness availability is usually checked beforehand. It would, therefore, be helpful if witnesses had a note of availability, for example holiday dates, with them at court.

17. If a warrant is granted the PF decides what to do with it. The Central Prosecution Team (CPT) contacts the relevant PF office.

In Absentia

18. An accused can be dealt with in their absence. They can plead guilty by letter and can be sentenced by the Sheriff in absence. A form attached to the Copy Complaint allows for details such as financial position etc.

19. Disposing of the case in this way is usually reserved for more minor offences. It is more likely that the case would be adjourned for sentence should the accused plead guilty in this manner.

20. If the case is adjourned the details of the adjournment and any new date for the Trial Diet must be included on FRAIMS.

21. Exceptionally, an accused may be dealt with in absentia if they are unable to appear and the Sheriff considers it appropriate.

22. Although possible, it is extremely unlikely that a trial would proceed In Absentia.

Warrant of arrest/bail

23. These matters are dealt with by the PF and should not concern the investigator.

Compensation

24. The Department for Work and Pensions (DWP) will refer all suitable cases for a financial investigation however in Scotland certain cases may only have a Compensation option to pursue restitution of any public funds obtained.

25. In DWP cases where the gross overpayment exceeds £5,000 and a financial investigation has been conducted, the DWP Financial Investigation Unit may seek compensation payable to the relevant department or local authority.

26. Details of the financial investigation and the request for a Compensation Order must be reported to the Procurator Fiscal (PF), who then makes representations to the court.

27. The court can make a Compensation Order under Section 249 of the Criminal Procedure (Scotland) Act 1995, as amended by Section 115 of the Criminal Law and Licensing Act 2010, in addition to other sentencing options. Only the court can enforce such orders.

Interpreters

28. The court does not provide interpreters in Scotland. It depends on who requires the interpreter.

29. If it is the accused or any defence witnesses, the agents for the accused usually arrange for the interpreter to be cited. The cost is borne by the accused, more commonly by the Scottish Legal Aid Board.

30. If, however, the accused is unrepresented or is making their first appearance, it is usually the Procurator Fiscal (PF) who arranges and pays for the attendance of the interpreter. He also arranges for an interpreter to be cited for any Crown witnesses or to 'assist the Court'.

31. In any case where the investigator is aware that either the accused, or any witness, requires the services of an interpreter, detail this in the report to the Central Prosecution Team (CPT). Specify the exact language or dialect used. This information is then reported to the PF.

Expert witnesses

32. Exceptionally, fraud cases involve professional or expert witnesses. These are cited by the Procurator Fiscal (PF) where deemed appropriate

Notional assessment of benefit

33. If an order that a notional assessment is obtained for sentencing purposes The Department's stance on this is that it cannot give a definitive decision on entitlement to benefits without an actual claim supported by information required for the correct decision to be made. Claimants have no entitlement to benefits which they have not applied for. The overpayment figure is the amount that has to be repaid. This follows judicial decisions in the case of DWP v Michael Richards and Larusai v The Secretary of State for Work and Pensions.

34. Notwithstanding any of the above, demands for notional calculations may be made.

35. For further information about notional assessments and abatements see The Overpayment Recovery Guide [Appendix 7 \(link is external\)](#).

36. However, a court is entitled to sentence on the degree of criminality in the case and can take the notional calculation into account for the purpose of mitigation in accordance with the decision of Regina v Parmer.

37. Local Authorities routinely apply underlying entitlement in all Housing Benefit/Council Tax Benefit (HB/CTB) cases and will conduct a notional assessment of benefit.

How to obtain a notional assessment

DWP Benefits

38. The investigator, or nominated officer, should make a written request to the appropriate benefit team for a notional assessment on the [NOT1 \(link is external\)](#) which must be sent with [NOT1A \(link is external\)](#). The NOT1A should be completed and returned by the person calculating the assessment within two weeks of the request or not later than seven days prior to the next court hearing date.

39. It is important that the return of the NOT1A is closely monitored because if the information is not available at the next hearing the court would ask for an explanation.

40. The details of the completion and issuing of the appropriate forms must be recorded as an activity on FRAIMS and enables the monitoring of the return of the forms from the appropriate benefit team, see [FRAIMS guidance - Details sent to Benefit Reassessment Team](#).

Tax Credits

41. Following consultation with Her Majesty's Revenue and Customs (HMRC), who are responsible for paying Tax Credit, notional assessments of Tax Credits are only provided if the request is made by the Court.

42. The investigator, or nominated officer, should provide sufficient information regarding the constitution of the household and income details on the [NOT2 \(link is external\)](#)/[NOT2A \(link is external\)](#) to enable the Multi Agency Unit to provide a notional assessment of Tax Credits. The NOT 2 should be faxed with a copy of the court order to:

[Redacted]

43. Alternatively requests can be submitted by email to: **[Redacted]**

44. Close monitoring of the return of this form is essential.

45. The details of the completion and issuing of the NOT2 must be recorded as an activity on FRAIMS and enables the monitoring of the return of the forms from the Multi Agency Unit.

Working Family Tax Credits

46. Where it is identified that a notional Working Family Tax Credit (WFTC) calculation is relevant to the period 05 October 1999 to 08 April 2003, the calculation will be undertaken by **[Redacted]**

47. HMRC will contact the NW Business Support Team if a calculation is required and the NW Business Support Team will respond direct to HMRC.

48. Investigators should make all requests direct to HMRC, following the procedure to obtain notional Tax Credit calculations, even if it is identified in advance that a notional calculation to WFTC will be required.

04 Action after the Court Hearing

Closure action

If it is decided, following a criminal investigation, that a fraud penalty is not appropriate, action should be taken as follows:

- if the matter is to be referred for Compliance action any evidence file that was raised must then be sent to them
- ensure that the overpayment has been calculated, if appropriate, and that a copy of the letter informing the claimant of the decision on recoverability is in the evidence file. Details of the overpayment must be recorded on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS guidance - Recording the overpayment decision - Criminal](#)
- if the investigator has been advised that the claimant has appealed against the benefit decision, ensure that all action on this has been cleared. See [FRAIMS guidance – Outcome of the Appeal hearing received](#)

Where an Interview Under Caution (IUC) has taken place with the claimant, a [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) must be issued to inform them that they will not be prosecuted for the offence but are still required to repay any overpayment that has occurred. Action to close the non fraud penalty case will be undertaken by the Team Leader, Higher Investigations Leader or nominated officer and the actions to be taken will depend on the arrangements locally regarding who prints and issues the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) to the claimant.

Referring the case for closure

All actions on the case must be completed before requesting closure of the case. Ensure that:

- any under or overpayment has been correctly recorded on the contact record
- colleagues associated to the case have been removed
- where Request For Information (RFI) and/or Regulation of Investigatory Powers Act (RIPA) requests have been made, all actions have been completed
- all activities have been completed, and where appropriate the activity status set to 'Done'

Responsibility for closing the case on FRAIMS lies with the Team Leader or Higher Investigations Leader. The actions to be taken will depend on who is responsible for issuing the CI7 / CI1S letter.

Where the Team Leader or Higher Investigations Leader prints and sends the letter, the Investigator should complete the FRAIMS correspondence template, ensuring the Team Leader or Higher Investigations Leader details are used. Merge and generate the letter but do not print at this stage.

Create the activity on FRAIMS to notify the Team Leader or Higher Investigations Leader the case is to be closed and the letter is ready to be issued to the claimant.

Where the Investigator is responsible for the issue of the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#), create an activity to notify the Team Leader or Higher Investigations Leader that the case is ready for closure action.

For further information, see [FRAIMS guidance – Closure approval \(Non fraud penalty Outcomes\) - Criminal](#).

Loss of Benefit provisions

On receipt of the activity, the Team Leader or Higher Investigations Leader must examine the case and consider if the case is approved for closure. The action to take will depend on who is responsible for issuing the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) letter.

Where the Team Leader or Higher Investigations Leader issues the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#), they should print the letter and then close the case.

Where the Team Leader or Higher Investigations Leader does not issue the [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#), they should update the activity received and return the activity to the investigator so that the letter can be produced and issued.

Where no [CI7 \(link is external\)](#) / [CI7W \(link is external\)](#) letter is required, the Team Leader or Higher Investigations Leader should update the activity received and close the case.

For more information, see [FRAIMS guidance – Closure action appropriate \(Non fraud penalty Outcome\) – Manager’s actions](#)

When any correspondence has been issued, close the case.

Incorrect Monetary Value Adjustment and/or under or overpayment details recorded

If during closure action it is discovered that the Monetary Value Adjustment (MVA) and/or under or overpayment details have been recorded incorrectly, action must be taken to update the Fraud Referral and Intervention Management System (FRAIMS) record with the correct details.

A FRAIMS user, with manager’s access level, must access the **Admin – Benefit Decision’ and/or ‘Admin – Under or Overpayment Decisions** screens and take action to update the information displayed. See FRAIMS guidance [Admin Views – Amending records](#).

05 Guidance on court etiquette

Court etiquette

1. Whenever the Sheriff or Judge enter or leave the courtroom, all should stand and bow a short dip of the head and shoulders. When entering or leaving the room while the court is sitting, the investigator should make a similar bow.

2. If addressed by the Sheriff or Judge, the investigator should stand before answering.

3. The status of the Judge can be ascertained from the court list of cases for hearing. The following modes of address are to be used:

- Clerk - Sir or Madam
- Sheriff - My Lord or My Lady
- High Court Judge - My Lord or My Lady
- District Court - Your Honour

The oath

4. When called upon to give evidence, the Sheriff tells the investigator to raise their right hand and repeat the following oath:

“I swear by Almighty God that I will tell the truth, the whole truth and nothing but the truth.”

5. Witnesses who, on religious grounds, object to taking the oath may affirm instead:

“I do solemnly, sincerely and truly declare and affirm that I will tell the truth, the whole truth and nothing but the truth.”

Giving evidence as a witness

6. In court, all witnesses when called are shown to the witness box.

7. Stand in the witness box when called. If the witness finds standing difficult, they may ask if they can sit down.

8. Witnesses are called because the accused has pleaded not guilty. The evidence will help the court decide whether the accused is guilty or not.

9. Ask the Sheriff’s permission before referring to notes whilst in the witness box.

10. Being in the courtroom can be a daunting experience when first attending. It is natural to feel nervous when called to give evidence.

11. Remember to take enough time and speak slowly and clearly.

12. Ask for questions to be repeated if they are misunderstood or inaudible. Say if unsure of the answer.

13. Always listen carefully to the questions. Avoid sounding as if the evidence is known by heart.

14. Be ready to provide name, age, occupation and professional address details.

15. The court may ask for home address details but a professional, work, address should be sufficient. This will always precede the main content of evidence given.

16. Do not get angry if the defence counsel:

- is aggressive
- is rude
- is unpleasant
- suggests the evidence given is untruthful

17. Always tell the truth and answer the question asked. Meet an allegation of mendacity with a polite, simple denial.

Examination-In-Chief

18. These questions comprise the 'prosecution' in which the Procurator Fiscal (PF) takes the witness through any statement they have made or any action they have taken. In the High Court this is an Advocate Depute.

19. Witnesses are asked to state the following:

- name
- address
- age, and
- occupation

20. If, for good reason, the witness prefers not to give this information verbally, a request may be made to the Judge to allow them to provide it in writing.

21. The witness should listen carefully to the questions asked and ensure their understanding before answering. If required, the PF should be asked to be more explicit or to repeat the question. The witness should answer the question actually asked and not what they think the question should be. It is for the PF and not the witness to build the case against the accused.

22. No 'leading questions' are asked, for example: 'Did you see the accused working as a builder/cleaner/etc?'

23. Questions are generally 'open', for example:

- 'Did you conduct surveillance on the accused?'
- 'What did you observe him/her doing on [date]?''

24. If the witness's evidence consists of an interview under the Test of Fairness, this must be put to the court in full, unless the defence has agreed to the exclusion of uncontested portions or the excision of irrelevant prejudicial aspects.

25. The witness may be required to read the entire record or the accused's responses in answer to their questions as read by the PF.

26. When giving evidence, speak distinctly and clearly. Do not address the PF putting the question, the witness's answers are for the Sheriff/High Court Judge and they should turn towards them when replying.

27. Do not speak too quickly; the Sheriff, Clerks, or High Court Judge may be trying to take notes of what is being said.

28. With the permission of the Sheriff, witnesses may refer to a document in order to refresh their memory, provided that the document:

- was made or verified by that witness contemporaneously, or as soon as practicable, with the events in question and
- is the original document, or a copy based on an original, made when the facts were fresh in the author's memory.

Cross-examination

29. After the witness has been questioned by the PF, they are subjected to 'cross-examination' by the defence solicitor.

30. If there is more than one accused and each is presented separately, they may be questioned by each defence solicitor in turn.

31. The purpose of cross-examination is to:

- weaken the witness's evidence by alluding to inconsistencies. Do not embellish answers with material that was not recorded contemporaneously in the official notebook (N1) or on FRAIMS - it may be suggested that the contemporaneous account was neither accurate nor reliable
- impeach the witness's credibility by questioning them about their:
 - knowledge of the law and relevant Codes of Practice
 - powers and opportunities of observation
 - memory
 - previous convictions or disciplinary proceedings for misconduct

32. Leading questions are permitted and those questions may be put to elicit an answer that is favourable to the accused or to cause the witness to become flustered.

33. Witnesses should not attempt to give an opinion on a matter. This is the province of the expert witness, such as a handwriting analyst.

34. Under no circumstances should witnesses attempt to answer a question about which they have no technical knowledge. If you do not know the answer, say so.

35. Although the defence solicitor may suggest that the witness's evidence is inaccurate and the tone of the questioning may border on rudeness or aggression, do not show anger or become upset. This is a tactic to unnerve or unsettle the witness.

36. If the cross-examination oversteps the mark, the Sheriff/Judge intervenes. In some cases, where there is no defence lawyer, questions may be asked directly by the accused.

Re-examination

37. After cross-examination, the witness may be re-examined by the prosecution PF on any matters arising which were not brought out 'in chief', or if they have been led astray by the defence solicitor's questions and said something which they did not intend or which is ambiguous.

Contempt of Court

Any person may be fined or imprisoned until he has purged his contempt (Contempt of Court Act 1981) if they willfully:

- insults the Sheriff, Judge, any witness or officer of the Court, or any advocate having business in court or
- interrupts the proceedings of the court or
- misbehaves in court

38. The following may be construed as contempt:

- showing verbal disrespect to court officials, or not standing when the Sheriff or Judge enters or leaves the courtroom
- using a tape recorder or camera, or making any sketches inside the court
- making a telephone call or allowing a mobile telephone or pager to ring
- eating, smoking, chewing gum, or drinking, other than water when provided

39. In addition, suitable clothing should be worn to court. Men should wear a shirt, tie, and jacket. The Jacket may be removed by permission of the Court in hot weather. Women should not wear excessive jewelry or make-up.

40. In the Sheriff Court or the High Court, outside the confines of the courtroom, there must not be any contact whatsoever with members of a jury.

41. If, for any reason, a juror approaches the investigator, they must explain that they may not talk to any member of a jury and immediately report the approach to the PF. Failure to do so may result in suspicion that the investigator is attempting to influence that juror.

Covert Human Intelligence Source

00 Use of Covert Human Intelligence Sources

Department for Work and Pensions and the use of Covert Human Intelligence Sources

1. The identification of a Covert Human Intelligence Source (CHIS) and the use of a CHIS, or the information supplied by a CHIS, relates to all investigations, not just those where surveillance is authorised as part of the investigation.

2. The status of a CHIS is connected to information the human source supplies and how it was obtained and is therefore specific to each investigation.

3. The Regulation of Investigatory Powers Act (RIPA) 2000 contains the definition of what a CHIS is and the legal powers to manage a CHIS.

4. The appropriate section within RIPA that relates to CHIS is in addition to powers within RIPA that allows DWP to authorise Directed Surveillance. CHIS should not therefore be assumed to be only relevant when part of DWP 'surveillance cases' as authorised under RIPA.

5. Covert Human Information Source is a term used by RIPA to describe a type of information source. RIPA creates a statutory scheme for authorising and regulating the use of such sources by public authorities.

6. The nature of a CHIS is that they are a human source that gathers and covertly shares information and they carry out relationships with the intention of passing on information to us, unbeknown to the other party to the relationship, known as 'the subject'.

7. Serious harm could come to the CHIS if their activities were discovered by the subject. Equally, if we do inadvertently engage a CHIS, the Department will run the risk of facing legal action if the CHIS is injured, suffers financial loss or is compromised as a result of their activities.

8. The authorisation system for a CHIS is in place to enable informants to be used in a regulated and therefore safe manner. There is substantial risk in public authorities operating a CHIS, not just to the CHIS themselves but also to our investigators and to the department.

Duty of care

9. The Department for Work and Pensions (DWP) has a duty to the CHIS and other informants who provides DWP with information in confidence to protect them, and their families, from risks to their physical safety and well-being to which they are potentially exposed as a result of their activities.

10. RIPA 2000 provides a shield for public authorities from allegations of unlawfulness, which will principally arise in the form of claims for declarations and damages under section 6 of the Human Rights Act 1988 for breach of Article 8. Unlawful surveillance also runs the risk of evidence being excluded at trial under s.78 of the Police and Criminal Evidence Act (PACE) 1984 or for a stay of the prosecution for abuse of process on the basis that evidence was obtained unlawfully.

11. The Department for Work and Pensions (DWP) is not included in the list of authorities that can obtain authorisations for CHIS under RIPA 2000.

12. As a result, the DWP and its investigators

- cannot use a CHIS and
- cannot deal with a CHIS other than that covered in this guidance.

13. Counter Fraud Compliance Directorate (CFCD) investigators must be able to identify when there is a risk of a human information source being a CHIS. Not all information sources are CHIS but we need to adopt an approach of questioning whether they are, each and every time we receive information from a person confidentially, every time we seek to speak to the person to obtain additional information and where a person continues to provide information to DWP.

14. Immaterial of whether a person is a CHIS, a Duty of Care is owed to the individual who provides information in confidence.

15. This guidance is aimed at assisting CFCD investigators to identify CHIS and to follow correct DWP procedure in responding to issues surrounding CHIS. The [test approach](#) may assist in arriving at a decision as to whether someone is a CHIS. However, working out if an information source is a CHIS requires investigators to think carefully about all the circumstances of the specific case: a formulaic approach is not enough.

16. It is important that investigators remember that they should ask themselves if a CHIS situation has been created or could be created each and every time information comes in from a source, or if we seek to engage with a source in any way.

01 Definition of a Covert Human Intelligence Source

Statutory definition of Covert Human Intelligence Source

1. The starting point is to look at the statutory definition of a Covert Human Intelligence Source (CHIS).

2. Section 26(8) of the Regulation of Investigatory Powers Act (RIPA) 2000 states:

“... a person is a covert human intelligence source if:

(a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);.

(b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or

(c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.”

3. A relationship is established or maintained for a covert purpose if, and only if, it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

4. A relationship is used covertly, and information obtained is disclosed covertly, if and only if, the relationship is used or the information is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

02 Identifying a Covert Human Intelligence Source

Identifying a Covert Human Intelligence Source

1. Following on from the statutory definition, it may assist investigators to apply the following test when identifying whether a person may be a Covert Human Intelligence Source (CHIS).

2. This test is set out as a guide only for Department for Work and Pensions (DWP) purposes, and is not exhaustive and should be used in conjunction with the statutory definition and the Home Office [Covert Human Intelligence Source Code of Practice \(link is external\)](#).

3. Although this Code of Practice is draft, pending formal approval by Parliament, investigators should adhere to it.

4. It is important to note that the Home Office Code of Practice defines a CHIS status as being the covert manipulation of a relationship to gain information.

5. Each case requires tailored judgement, discussion with senior managers and, if appropriate. Record the decision on FRAIMS.

6. Whenever information is received by DWP from a human source or we seek to engage with the source in anyway, investigators may adopt the following approach:

- Has the source established or maintained a relationship, personal or otherwise, with any person for the purpose, or partial purpose, of:
 - a. obtaining information
 - b. allowing access to information to another person
 - c. disclosing any information obtained

7. If either a, b, or c is satisfied, have they conducted that relationship in a manner calculated to ensure that the target remains unaware that the relationship is being established or maintained for this purpose?

8. Is the relationship conducted in a manner calculated to ensure that the subject remains unaware that information is being passed, or may be passed, to DWP?

9. If the answer to both a and b is ‘Yes’, it is likely the source is acting as a CHIS and action outlined in [04 Covert Human Intelligence Source identification procedure](#) followed.

10. CHIS consideration does not apply by definition for investigations sourced from routes such as General Matches System (GMS) matches or directly from Real Time Information (RTI) or Wider use of Real Time Information (WuRTI) sources. In these cases, it is sufficient to note the opening minute “CHIS N/A – RTI” or “CHIS N/A – GMS”.

03 Covert Human Intelligence Source identification procedure

Covert Human Intelligence Source identification procedure

1. Whenever information is received from any person, named or anonymously, investigators should query if there is a risk that the person is operating as a Covert Human Intelligence Source (CHIS).

2. Investigators must adopt the following procedural approach to dealing with CHIS.

Investigators must take initial action to complete a CHIS check and Brief Plan of the Investigation and record in Fraud Referral and Investigation Management system (FRAIMS). Failing to comply with CHIS, Initial Case Action and Case Selection Preview requirement means:

- you are not complying with legal requirement to provide and demonstrate a full and appropriate investigation
- you cause unnecessary rework for others
- incorrect benefit payments impacting the Departments performance reporting of official error results
- incorrect Management Information (MI) reported, potential incorrect Total Corrective Value (TCV) measures
- incorrect selection impacts on resources
- poor customer service and unnecessary delays

3. Apply [the test](#) and consider the statutory definition and the rest of this guidance. If this suggests that the source could be a CHIS, or you remain unclear, discuss with your Team Leader (TL) who will refer to your operational Senior Investigations Leader (SIL) for initial consideration.

4. The SIL will advise either that the source is, or is not, a CHIS.

5. If the source is an anonymous CHIS, the SIL will guide the TL and the investigator on the actions that should be taken. If the source is a named CHIS, or the SIL is in doubt as to whether they are a CHIS, the SIL will contact the Central Authorisation Bureau (CAB) for guidance.

6. Where a CHIS is identified, the advice from a SIL/CAB will normally be that the investigator should take immediate steps to advise the CHIS of all of the following three points;

- they have become CHIS so no further information can be sought or received from them by the Department for Work and Pensions (DWP)
- there are risks to their safety in acting in this manner and although we will take steps to protect their confidentiality we cannot guarantee their safety or welfare
- they should take measures to mitigate those risks and where able the investigator should suggest ways in which to do so.

7. If a source previously identified as not a CHIS comes back with further information, or the offer of further information, the procedure for CHIS identification should be run through again.

8. If an investigator wishes to ask a source previously identified as not a CHIS to obtain any further information, the procedure for CHIS identification should be run through again.

9. If by seeking further information the source will come within the definition of a CHIS the investigator must not ask them to seek information in this way. See the examples detailed in [06 Guidance on Covert Human Intelligence Source relationships](#).

10. If a source who has been identified as a CHIS, continues to approach the investigator with further information, then the matter should be referred to CAB for guidance.

04 Actions where a Covert Human Intelligence Source is identified

Investigator actions

1. The investigator must check each incident received on a case to ensure it is correctly associated to that case and whether there is a potential Covert Human Intelligence Source

(CHIS), named or anonymous. This determination is made by considering the information provided. The key question the investigator needs to consider is 'HOW did the informer obtain this information?' see [FRAIMS guidance - Locating an Incident from a case](#).

2. This action should be taken in relation to all incidents, including those where the incident is generated as a result of a letter which is held at the Operational Intelligence Unit (OIU) at the following stages of the investigation:

- at the outset
- during the course of the investigation
- prior to submission for consideration of suitability for prosecution/fraud penalty and
- transferred to Compliance.

3. If the incident is the first on the case, the outcome of the check must be included in the opening minute on FRAIMS.

4. If the incident is a second or subsequent incident, the investigator will check all previous incidents to identify if that person could have previously provided information on the case. This can be determined by considering repetition of previous information provided, previous information plus further detail, referral to a system generated reference number or by direct comment about a previous referral.

5. The investigator will suspend action on the case and create an activity on FRAIMS, see [FRAIMS guidance – Potential Covert Human Intelligence Source referral – Investigator action \(link is external\)](#).

Team Leader / Higher Investigation Leader actions

6. Following completion of the determination, the Team Leader (TL) / Higher Investigations Leader (HIL) will complete the [CHIS Tracking template \(link is external\)](#), details should include:

- dates and method of contact by source, for example, Fraud Referral Form (FRF), telephone call, interview
- information provided, including explanation of whether repeat/additional and why it suggests possibility of CHIS
- external or internal source
- any other information that may be thought to be relevant.

The completed template should be attached to the activity and forwarded for the SIL to confirm the determination and note the next actions, see [FRAIMS guidance – Team Leader / Higher Investigations Leader actions](#).

Senior Investigations Leader actions

7. A Senior Investigations Leader (SIL) will consider and clear referrals where an anonymous referral is determined to be No CHIS or a Potential or Definite CHIS. They will provide an explanation of their concerns and their recommendations in the 'Summary of resolution/advice/reasons for referral to CAB' box on the [CHIS Referral Tracker \(link is external\)](#).

8. Where the SIL confirms that it is not a CHIS, no further CHIS action other than to note the comments box on FRAIMS will be appropriate. The tracker should be completed with reasons for the SIL's determination on CHIS status on all occasions and the completed tracker attached to the activity in FRAIMS.

9. Having attached the completed CHIS Referral Tracker on FRAIMS, the SIL will return the activity via the TL/HIL to the investigator who will resume action on the case, see [FRAIMS guidance – Senior Investigations Leader actions](#). SILs are required to maintain a record of their decisions.

10. If the CHIS is named on the referral, or the SIL feels there is sufficient doubt to be unsure in making the decision, they will include their reasons on the CHIS Referral Tracker template Summary of Resolution Box articulating their reasons for the referral and forward it by e-mail to the Central Authorisation Bureau (CAB); **[Redacted]** for consideration.

Central Authorisation Bureau actions

11. The Central Authorisation Bureau (CAB) will respond to the Senior Investigations Leader (SIL) either by contacting them to discuss the case or by completing the response section of the [CHIS Referral Tracker \(link is external\)](#) template within five working days of receipt.

12. If the discussion dictates, it may be appropriate to obtain legal advice from DWP Lawyers to determine whether or not the informer will be put at substantial risk of harm if the information is used to further the investigation. In these circumstances lawyers may advise the information cannot be used.

13. When the CAB has provided a response to the SIL, the SIL will need to ensure they take the recommended action, attach the completed tracker to a FRAIMS activity and return the tracker via the TL/HIL to the investigator, see [FRAIMS guidance – Response received – Investigator actions](#). This will ensure that DWP has created the necessary audit trail to demonstrate that it has discharged its Duty of Care to the individual who provided the information. This detail is essential for any future complaint to ICT or challenge in a court of law.

Office of Surveillance Commissioners inspection and record keeping

14. The Office of Surveillance Commissioners (OSC) inspects the Department for Work and Pensions (DWP) activities under Regulation of Investigatory Powers Act (RIPA) 2000 annually. CHIS form part of the inspection. OSC inspectors will review a sample of decisions and evaluate the record of CHIS determinations. Senior Investigations Leader (SIL)/ Central Authorisation Bureau (CAB) will be required to provide a record of their decisions, where requested.

05 Guidance on Covert Human Intelligence Source relationships

General guidance

1. Whether a source is a CHIS does not depend on whether private information is obtained. It is the covert nature of using a relationship to obtain any information that is key.

2. A CHIS could be a Department for Work and Pensions (DWP) official, investigator, a member of the public or any other type of person.

3. Where a source does not disclose their name or details to an investigator, enquiries should still be made of the source in order to obtain the information needed to determine if there is a CHIS risk or not. Note: This applies only where a source has made direct contact with an investigator, not where a source contacts the DWP National Benefit Fraud Hotline (NBFH).

4. The guidance in [04 Covert Human Intelligence Source identification procedure](#) should be followed carefully for anonymous sources, just as it is for sources that disclose their identities to investigators.

You must take initial case action to:

- complete a CHIS check and Brief Plan of the Investigation and record in Fraud Referral and Intervention Management System (FRAIMS)

- conduct an initial check to ensure the case is suitable for compliance action

Checking all systems to preview the case before review or closure and ensure the case is suitable for continued action and lease or deselect where appropriate.

Note: Failing to comply with CHIS, Initial Case Action and Case Selection Preview requirements means:

- you are not complying with legal requirement to provide and demonstrate a full and appropriate investigation

- you cause unnecessary rework for others

- incorrect benefit payments impacting the Departments performance reporting of official error results

- incorrect MI reported, potential incorrect TCV measures

- incorrect selection impacts on resources

- poor customer service and unnecessary delays

5. If the test is satisfied, investigators need to warn the CHIS of the risks in the same way that we warn an identified CHIS. A source not revealing their identity should not stop the Department's responsibilities for care from happening.

6. DWP does not need to have dealt with a source multiple times for them to be considered a CHIS. Just one interaction can give rise to a CHIS situation.

7. It does not necessarily matter if the source-subject relationship was not initially established for the covert purpose of supplying information. A relationship, such as a friendship, can begin without any intention that it is to be covertly used to provide information but can become a CHIS relationship further down the line because of how the relationship is subsequently used.

8. It is essential that each and every time an investigator deals with an information source, even if that source has been previously designated as not being a CHIS, the investigator reconsiders if there is now a risk that the source has become a CHIS, or would become a CHIS if they were asked to obtain further information by DWP.

06 Using information from Covert Human Intelligence Sources

Using information from Covert Human Intelligence Sources

1. Very often investigators will receive information from a potential Covert Human Intelligence Source (CHIS) before they have identified them as a CHIS. The guidance in [04 Covert Human Intelligence Source identification procedure](#) should be carefully followed but generally speaking, the information received can be used.

2. Where a source who was originally identified as not being a source makes further contact with the Department for Work and Pensions (DWP) offering information, the investigator should follow the guidance in [04 Covert Human Intelligence Source identification procedure](#) and consider if a CHIS now exists.

3. Where there is a concern that the individual may have become a CHIS, a referral should be made to the Central Authorisation Bureau (CAB) who will direct on how to respond to the individual and will also assist on whether the information they have provided can be used.

4. Where a CHIS has been identified and then discouraged from supplying information but they persist in trying to provide more information, advice should be sought from CAB who will direct whether the further information can be used.

5. It is important that in any dealings with a source who has been identified as CHIS, investigators not only ensure that they do nothing that can be interpreted as encouraging the CHIS, but also that they are [positively discouraging](#) the CHIS from continuing to source information.

6. This rule applies to information received at the point of first contact with a CHIS as well as to information received after that.

07 Determining Covert Human Intelligence Service status prior to taking a Witness Statement

General Overview

There are occasions when allegations are received, generally via the National Benefit Fraud Hotline (NBFH) or via the Internet, where the informant includes their contact details. Subsequently, when approached, the informant is sometimes prepared to give a Witness Statement.

We need to determine whether these individuals should be treated as a Covert Human Intelligence Service (CHIS) and advise them of the consequences prior to taking any witness

statement. This is to ensure Department for Work and Pensions (DWP) discharges its Duty of Care in advising informants of the risks to their health and wellbeing in acting in this manner.

In all such cases the CHIS Test as outlined in this guidance at [03 Identifying a Covert Human Intelligence Source](#), should be applied to determine whether or not the informant is a CHIS. In a case where a named informant says in the allegation (via either the internet, NBFH or a call to the office) they are willing to give a statement we should treat them as a CHIS (providing they meet the Test set out in the CHIS guidance) up to the point of taking that statement.

We should discuss the nature of their relationship with the individual they are informing upon and advise them of the risks as per CHIS guidance followed by the implications of them making a statement including that their details may have to be disclosed in court.

If the informant is reluctant and wants their Identification (ID) and the information they are providing to be concealed and not disclosed then we would treat the information as sensitive material, file in sensitive folder and make the necessary P11 application.

If the informant is willing to be a witness and is aware that his details and his statement will be disclosed and that he may be required to attend court we should advise as per our guidance on handling witnesses.

In both circumstances the informant must be advised (if they meet the Test set out in the CHIS guidance) of the CHIS risks prior to the taking of any Informant or Witness statement.

Underpinning this, the investigator must be alert as to what danger could come to the individual and ensuring that appropriate warnings are given to him before any option is chosen as in the event of reprisals and injury we will need to show and audit trail of the duty of care that we have exercised

Covert Human Intelligence Source common scenarios

Common scenarios

1. The source is unlikely to be a Covert Human Intelligence Source (CHIS) if the information provided is from the source's personal observation. If further information can be obtained from the source's personal observation it is acceptable to ask for this further information. Such scenarios are usually not CHIS because the source is not covertly establishing or maintaining any relationship to obtain information.

Example 1

A member of the public volunteers a piece of information to DWP regarding something they have witnessed in their neighbourhood.

The member of the public would not be regarded as a CHIS. They are not passing information as a result of a relationship which has been established or maintained for a covert purpose.

2. Asking a source to obtain further information may result in a source becoming a CHIS. This is likely if the source has to establish or use an existing relationship with the subject or an associate of the subject to obtain the information covertly. The critical factor is how the information is obtained.

Example 2

Mr Y volunteers information to a member of DWP about a neighbour about something he happens to know about. Mr Y is not a CHIS at this stage if he has not established or maintained, or been asked to establish or maintain, a relationship with his neighbour for the covert purpose of obtaining and disclosing information.

However, if Mr Y was subsequently contacted by the DWP and asked if he would ascertain certain specific information about his neighbour, at this point, it is likely that Mr Y's

relationship with his neighbour is being maintained and used for the covert purpose of providing that information.

A CHIS authorisation would therefore be necessary to authorise interference with the Article 8 right to respect for private and family life of Mr Y's neighbour. This is something that DWP is not able to authorise.

If, instead of DWP making contact with Mr Y asking him to obtain further information, Mr Y makes further contact with DWP and offers more information about his neighbour, there is a real possibility that Mr Y has moved to being a CHIS. This is because it would appear that Mr Y is maintaining or developing his relationship with his neighbour for the covert purpose of obtaining and disclosing information.

In cases of this sort, the investigator must contact the Central Authorisation Bureau (CAB) who will advise what steps to take.

3. Tasking a person to obtain information covertly may result in them becoming a CHIS. However, this will not be true in all circumstances.

For example, where the tasking given to a person does not require them to covertly establish or maintain a relationship for the purpose of obtaining, providing access to or disclosing the information sought or where the information is already within the personal knowledge of the individual, that person will not be a CHIS.

Example 3

A member of the public is asked by a member of a public authority to maintain a record of all vehicles arriving and leaving a specific location or to record the details of visitors to a neighbouring house. A relationship has not been established or maintained in order to gather the information and a CHIS authorisation is therefore not relevant.

Other authorisations under the Act, for example, directed surveillance may need to be considered where there is an interference with the Article 8 rights of an individual.

4. Just because DWP refrains from tasking a source to obtain or provide further information does not mean that we are not engaging a CHIS. Receiving one piece of information in circumstances which satisfy the definition of CHIS is enough to create a CHIS situation.

5. Often, the key is to look at the nature of the relationship: has it been established or maintained for a covert purpose? The word "establishes" when applied to a relationship means "set up". It does not require, as "maintains" does, endurance over any particular period.

6. Consequently, a relationship of seller and buyer may be deemed to exist between a shopkeeper and a customer even if only a single transaction takes place. If the customer established this relationship with the covert purpose of obtaining information to pass to DWP, there would be a risk that a CHIS was being created.

7. Repetition is not always necessary to give rise to a relationship, but whether or not a relationship exists depends on all the circumstances including the length of time of the contact between seller and buyer and the nature of any covert activity.

8. The investigator must be satisfied that a source will not be entering into a CHIS relationship before requesting him to obtain further information from the target or an associate of the target. If any doubt exists, investigators should not task a source to obtain further information.

9. Individuals or members of organisations, for example, travel agents, housing associations and taxi companies, who, because of their work or role have access to personal information, may provide information to DWP and need to be managed appropriately.

10. Investigators must keep such sources under constant review to ensure that they are managed with an appropriate level of sensitivity and confidentiality, and to establish whether, at any stage, they have become a CHIS.

11. Investigators may develop relationships with the subject and others. In progressing this relationship an investigator may become a CHIS, depending on the nature of the relationship.

Example 4

A DWP investigator attends a health club where the subject works as a personal trainer and obtains information from the subject. The investigator may be a CHIS within the definition of Regulation of Investigatory Powers of Act (RIPA).

12. As a general rule, where a DWP investigator undertakes investigatory work but does not reveal to those he comes into contact that he is a DWP investigator, there is a real risk that he is operating as a CHIS.

CPIA (Including Disclosure Officers duties)

00 Introduction

Introduction

1. The provisions of the Criminal Procedure and Investigations Act (CPIA) 1996 apply in **England and Wales** only.
2. This section provides guidance on disclosure of the criminal case. For guidance on disclosure to third parties, see [Disclosure to third parties](#)

What is disclosure

3. Disclosure is the exercise by which material in the possession of investigators and which is relevant to the investigation is provided to the Defence. Relevant material is disclosed if it is capable of assisting the Defence or undermining a Prosecution.
4. Terms such as **material** and **relevant material** have very specific and particular meaning and need to be used carefully.
5. The proper management of case material is the corner stone for any disclosure exercise.
6. Disclosure and proper management of case material must start at the outset of a case.
7. It is a requirement of the law that disclosure is conducted by properly trained officers with sufficient experience to deal with the type of case involved.

Why is disclosure important?

8. Every defendant has a right to a fair trial. This is enshrined in Article 6 of the European Convention on Human Rights. Every Defendant has the right to know about any material which could assist their Defence or undermine a case against them. It is a cornerstone of democracy and helps prevent miscarriages of justice.

9. A failure to properly manage case material and deal with disclosure correctly can lead to cases collapsing prior to trial even where the evidence might be strong. This leads to a considerable waste of public money.

10. Failures in case management and disclosure cause reputational damage. It can lead to the public losing faith in the judicial system. It can lead to reputational damage for DWP and considerable stress for investigators who may be required to explain in court failings in the process.

11. In larger and more complex cases the Defence will target the process of the investigation even where the evidence may be strong. To fend off these attacks, careful handling of case material and the disclosure process is imperative.

Legislation

12. The Criminal Procedures and Investigation Act (CPIA) 1996 and [CPIA Codes of Practice \(link is external\)](#), as set out in the Code, ensures that there is fair disclosure of material that may be relevant to an investigation and which does not form part of the prosecution case.

13. The Code sets out the manner in which persons who are charged with investigating and prosecuting offences must:

- investigate cases
- record and retain information gathered during investigations
- prepare unused, non-sensitive and sensitive material schedules and disclose all relevant material to the prosecutor.

14. All persons involved in the investigation of criminal offences must comply and be familiar with the provisions of CPIA and the Code, as amended by CJA 2003.

15. In addition, all investigators must have regard to the [Attorney General's Guidelines on Disclosure \(link is external\)](#), which states:

“Investigators and disclosure officers must be fair and objective and must work together with prosecutors to ensure that disclosure obligations are met. Investigators and disclosure officers must be familiar with the CPIA Code of Practice, in particular their obligations to **retain** and **record** relevant material, to **review** it and to **reveal** it to the prosecutor.”

“Whether a case is a summary only matter or a long and complex trial on indictment, it is important that investigators and disclosure officers must approach their duties in a “thinking manner” and not as a box ticking exercise. Where necessary, the reviewing lawyer must be consulted. It is important that investigators and disclosure officers are deployed on cases which are commensurate with their training, skills and experience. The conduct of an investigation provides the foundation for the entire case, and may even impact the conduct of linked cases. It is vital that there is always consideration of disclosure matters at the outset of an investigation, regardless of its size.”

16. Section 32 of the CJA 2003 covers the initial duty of disclosure by the prosecutor. This section amends section 3 of the CPIA 1996 and introduces a new, objective single test for the disclosure of unused prosecution material to the defence.

17. The new test requires the prosecutor to disclose to the accused:

“...any prosecution material which has not previously been disclosed to the accused and which might reasonably be considered capable of undermining the case for the prosecution against the accused, or of assisting the case for the accused.”

18. Material can reasonably be considered as capable of undermining the prosecution case against the accused or assisting the defence case if it weakens the prosecution case or strengthens the defence case.

19. This includes anything that tends to show a fact inconsistent with the elements of the case that the prosecution are seeking to prove.

20. Section 33 of CJA 2003 covers changes to defence disclosure. Under this section the defence is required to provide:

- more detailed defence statements
- details of any alibi witnesses and
- updated defence statement in certain cases.

21. Section 34 of CJA 2003 covers the notification by the accused of an intention to call any other defence witnesses. This section imposes a new requirement on the accused to serve, before the trial, a notice giving details of any witnesses they intend to call to give evidence at their trial.

22. Section 35 of CJA 2003 covers the notification of names of experts instructed by the accused. This section imposes a new requirement on the accused to serve, before the trial, a notice giving details of the name and address of any expert witness consulted.

23. Section 37 of CJA 2003 covers the continuing duty of disclosure by the prosecutor and repeals sections 7 and 9 of the CPIA 1996, respectively dealing with secondary disclosure and the continuing duty on the prosecutor to disclose. This section applies at all times after the prosecutor has provided initial disclosure under section 3 of the CPIA 1996.

24. Section 40 of CJA 2003 covers the Code of Practice for police interviews of witnesses notified by the accused. This provision must be read in conjunction with section 34. The Code of Practice will apply where the police, or non-police investigators, intend to interview a witness whose details have been notified to the prosecution by the accused.

The Code of Practice

25. The Criminal Procedures and Investigation Act (CPIA) 1996 and CPIA Codes of Practice, (the Code), have been amended to take into account the changes which have been brought into force under Part 5 of the Criminal Justice Act (CJA) 2003. The scheme set out in the Code ensures that there is fair disclosure of material that may be relevant to an investigation and which does not form part of the prosecution case.

26. The Code sets out the manner in which persons who are charged with investigating and prosecuting offences must:

- investigate cases
- record and retain information gathered during investigations
- prepare unused, non-sensitive and sensitive, material schedules and disclose all relevant material to the prosecutor.

27. All persons involved in the investigation of criminal offences must comply and be familiar with the provisions of CPIA 1996 and the Code, now amended by CJA 2003.

28. In addition, all investigators must have regard to the [Attorney General's Guidelines on Disclosure \(link is external\)](#), which states;

“Investigators must be fair and objective and must work together with prosecutors to ensure that disclosure obligations are met. A failure to take action leading to proper disclosure may result in a wrongful conviction. It may alternatively lead to a successful abuse of process argument or an acquittal against the weight of evidence”.

Definitions

Criminal Procedures and Investigation Act 1996

29. To understand the obligations imposed by the Code, investigators, Disclosure Officers and/or deputy Disclosure Officers must familiarise themselves with the definition clauses contained in the Code.

Criminal investigation

30. A criminal investigation is an investigation conducted by police officers, or people charged with investigating offences such as Department for Work and Pensions (DWP) investigating officers, with a view to it being ascertained whether a person must be charged with an offence, or whether a person charged with an offence is guilty of it. This will include:

- investigations into crimes that have been committed
- investigations whose purpose is to ascertain whether a crime has been committed, with a view to the possible institution of criminal proceedings
- investigations which begin in the belief that a crime may be committed, for example when premises or individuals are kept under observation for a period of time, with a view to the possible institution of criminal proceedings
- charging a person with an offence includes prosecution by way of summons.

Investigator

31. An investigator is any officer involved in the conduct of a criminal investigation. All investigators, including DWP investigators, have a responsibility for carrying out the duties imposed under this Code, including in particular recording information and retaining records of information and other material:

Officer in Charge

32. The Officer in Charge of an investigation, is the officer responsible for directing a criminal investigation. They are also responsible for ensuring that proper procedures are in place for recording information, retaining records of information and other material, in the investigation.

Disclosure Officer

33. The Disclosure Officer is the person responsible for:

- examining and listing material retained by the investigators during the investigation
- revealing material to the prosecutor during the investigation and any criminal proceedings resulting from it
- certifying that he/she has done this and
- disclosing material to the accused at the request of the prosecutor.

34. Where there are more than one disclosure officer assigned to a case, there must be a lead disclosure officer to make sure the investigator's disclosure obligations are complied with. Where appropriate, regular case conferences must be conducted, making sure prosecutors are aware of all relevant developments

Prosecutor

35. The Prosecutor is the authority responsible for the conduct, on behalf of the Crown, of criminal proceedings resulting from a specific criminal investigation.

Material

36. Material is material of any kind, including information and objects, that is obtained in the course of a criminal investigation and which may be relevant to the investigation. This includes not only material coming into the possession of the investigator, such as documents seized in the course of searching premises but also material generated, such as interview records.

37. Material may be relevant to an investigation if it appears to an investigator, or to the officer in charge of an investigation, or to the disclosure officer, that it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having any impact on the case.

Sensitive material

38. Sensitive material is material, the disclosure of which, the disclosure officer believes, would give rise to a real risk of serious prejudice to an important public interest, see [Sensitive material and Public Interest Immunity](#).

Prosecution disclosure

39. References to prosecution disclosure relate to the duty of the prosecutor, under sections 3 and 7A of the Act, to disclose material which is in their possession or which they have inspected in pursuance of this Code, and which might reasonably be considered capable of undermining the case against the accused, or of assisting the case for the accused;

40. References to the disclosure of material to a person accused of an offence include references to the disclosure of material to their legal representative.

01 Responsibilities and roles

General responsibilities

1. Investigators must be aware of the [Crown Prosecution Service Disclosure Manual – Annex A \(link is external\)](#) in relation to disclosure of unused material, when specifically working jointly with other agencies or the police.

2. Investigators, Disclosure Officers and/or deputy Disclosure Officers must have received the appropriate learning and development to discharge their statutory duty, common law duty and operational instructions. Material should be recorded and retained if there is any doubt as to its relevance.

3. All investigators must be fully conversant with the legislation and guidance and be confident in their knowledge of the requirements expected of them as Department for Work and Pensions (DWP) investigators. There is an expectation from the courts that investigators and Disclosure Officers are sufficiently aware of the contents and their implications.

4. It is the responsibility of the Team Leader/Higher Investigations Leader to ensure that all investigators, Central Preparation Team (CPT)/Digital Case Management Unit (DCMU) staff and any officers involved in the investigation and/or disclosure process, have read the Criminal Proceedings and Investigation Act (CPIA) 1996 Codes of Practice (the Code), the [Attorney General's guidelines \(link is external\)](#) and [Crown Prosecution Service Advance Information \(link is external\)](#) when working jointly with police, and instructions about how to apply the CPIA Codes of Practice.

5. The Code imposes a legal requirement on all investigators to properly record and retain material, including negative material, in all criminal investigations whether or not a case is intended to progress to a prosecution.

6. Failure to comply with the Code at any stage could result in the case being rejected, withdrawn, dismissed, or for evidence being excluded at Court.

7. The Department for Work and Pensions (DWP) could be subjected to criticism by both the courts and the media. Serious breaches of the Code could amount to serious misconduct, which in turn could lead to internal disciplinary or criminal proceedings being brought against the officer.

8. In every investigation, no matter how brief, all investigators must ensure:

- all investigation notes should be detailed, dated and signed
- all recorded information is strictly factual, for example, do not include opinions or personal remarks
- records are kept of all information obtained in the course of the investigation even when it does not appear to be relevant to the case
- all reasonable lines of enquiry are pursued in the course of an investigation, including those which do not support the line of the investigation
- all written and computer records, for example documents, print-outs, forms, statements etc are retained and identified and
- all master and working tapes from taped Interviews Under Caution, photographs, negatives, DVD's, CD's and video cassettes are retained, identified and can be retrieved.

Record of officers engaged in the investigation

9. The Team Leader/Higher Investigations Leader is responsible for ensuring that the identity of the:

- investigator
- Officer in Charge
- Disclosure Officer and
- deputy Disclosure Officer.

10. This information must be recorded on the [PF16 \(link is external\)](#) in accordance with the CPIA Code of Practice 3.1 – 3.6 for every investigation and on FRAIMS as an activity. The functions of these officers, as described by the CPIA Code, must be fulfilled.

11. Whilst the roles are separate, one person can, if appropriate, carry out the functions. If more than one person carries out the functions, it is essential there is close consultation between the different officers.

12. A deputy Disclosure Officer may be appointed in large-scale or complicated operations, to enable the role of the Disclosure Officer to be shared by several persons.

13. A deputy Disclosure Officer could be appointed in a joint working case, for example with a Local Authority (LA) when the deputy Disclosure Officer might take the role on behalf of the LA.

14. The deputy Disclosure Officer assists in the disclosure duty and discloses all relevant material to the Disclosure Officer.

15. How, and by whom, the different functions are carried out varies according to the type of investigation and the number of officers involved.

16. If during the course of the investigation these officers change, for example the investigator leaves Counter Fraud Compliance Directorate (CFCD) or the department or is on long term sick, a new PF16 must be completed and the original form entered on the unused material schedule.

Roles

Team Leader/Higher Investigations Leader

17. The Team Leader/Higher Investigations Leader is responsible for ensuring that investigators have clear instructions about how the functions are to be carried out, by whom, and in what circumstances.

18. The record of the officers must be available in any prosecution file resulting from an investigation. The [PF16 \(link is external\)](#) should be used for this purpose and filed on the fraud file. It is good practice to include all investigators involved in the investigation in this form, including, if the case is a joint working case, the names of all investigators from each organisation.

19. The Team Leader/Higher Investigations Leader must always ensure that all Disclosure and deputy Disclosure Officers have sufficient skills, knowledge and authority, and fully understand the complexity of the investigation, to carry out their functions effectively.

20. The date the investigation commences is automatically recorded on the FRAIMS case. The Code applies in any criminal investigation instigated on any fraud referral. A space for this date is provided on form PF16.

21. If during the course of an investigation, any of these officers cease to be involved in the investigation (including annual leave or sickness absence as well as staff leaving the department), the Team Leader/Higher Investigations Leader is responsible for ensuring another officer is assigned to take over the duties as soon as reasonably practicable to do so to avoid unnecessary delays. The identity of the new officer must be recorded on FRAIMS as an activity with the date they took over their responsibilities, and made available on any prosecution file resulting from the investigation.

Investigator

22. When conducting an investigation, the investigator must pursue all reasonable lines of enquiry, whether these point towards or away from the suspect. That means that if it is available, information that could help the defendant's case must be obtained, recorded and retained. It also means that if there is an avenue of investigation, that might not promote the investigation, but which may help the accused to defend their case, this avenue must be explored if it is reasonable and practicable to do so.

23. Where material is held on computer, it is a matter for the investigator to decide how many of the files on the computer it is reasonable to inquire into, and in what manner. The circumstances of the case should be borne in mind when exercising the question of reasonableness.

Officer in Charge

24. The Officer in Charge of an investigation may be:

- the Team Leader/Higher Investigations Leader or
- the same person as the investigator and Disclosure Officer where it is deemed appropriate or when only one officer is involved in an investigation.

25. Although the Officer in Charge may delegate their duties, they remain responsible for:

- ensuring the duties under Criminal Procedures and Investigation Act (CPIA) 1996 are carried out
- accounting for any general policies followed in the course of the investigation; for example:
 - the manner in which the investigation is conducted
 - the methods used to obtain information
 - that guidance is correctly followed, etcetera.

26. An essential part of the duties of the Officer in Charge is to ensure that all material, that may be relevant to an investigation, is retained and made available to the Disclosure Officer.

27. There may be occasions when a third party may hold material which could be relevant to an investigation but which is not available for the investigator to take away. In such circumstances the Officer in Charge should inform the third party of the existence of the investigation and to invite them to retain the material in case a request for its disclosure is received.

28. The appointed person's identity details must be recorded, as with those initially responsible for their functions in their part of the investigation on form PF16.

Disclosure Officer

29. The Disclosure Officer must be someone who is fully acquainted with the investigation and is likely to know the whereabouts of all the material gathered during the course of the investigation. The Disclosure Officer is the officer responsible for:

- examining material retained during the investigation
- compiling unused material schedules and certifying they have done this
- bringing to the attention of the prosecutor the existence of unused material, that might reasonably be considered capable of undermining the case against the accused, or of assisting the case for the accused when completing the disclosure officer's report and providing copies of said material
- provide to the prosecutor material provided by an accused person that indicates an explanation for the offence with which the accused has been charged
- provide to the prosecutor any material casting doubt on the reliability of a confession
- provide to the prosecutor any material casting doubt on the reliability of a prosecution witness
- examine defence statements and draw the attention of the prosecutor to any material which meets the test of prosecution disclosure
- revealing disclosure material to the prosecutor
- disclosing material to the defence at the request of the prosecutor.

30. The Disclosure Officer should ensure that the prosecutor is aware of the existence of material held by third parties.

02 Treatment of information obtained during the investigation

Recording of information

The Criminal Procedures and Investigation Act (CPIA) 1996 [Code of Practice \(link is external\)](#) paragraphs 4.1 – 4.4 requires that all material gathered during the investigation must be recorded in durable or retrievable form; whether in writing, on video, audio-tape or computer disk.

The investigator is responsible for ensuring that all information that may be relevant to an investigation at the time it is obtained, or as soon as practicable after that time, is recorded on the file.

This includes making enquiries of third parties or enquiries undertaken by other officers in Counter Fraud Compliance Directorate (CFCD) Criminal Investigations or Criminal Intelligence Operational Intelligence Unit (OIU), on the investigator's behalf.

All relevant information however obtained for example by telephone, in person, in writing or electronically, must be recorded and must be accessible in particular to the Disclosure Officer and prosecutor if the investigation leads to a prosecution.

Negative information is often relevant to an investigation even if, to the investigator, it appears to have no relevance. Therefore, careful consideration must be given to the relevance of all information obtained.

Any relevant information an investigator comes across in the course of an investigation must be recorded. This includes any information that might have been obtained casually. Further information on relevance can be found under [Definitions](#).

Example 1

A passing reference is made to an aspect of an investigation during a telephone call about another matter. This is relevant and would need to be recorded on FRAIMS.

Example 2

During the course of an investigation and under a RIP1 application, observations are undertaken at a claimant's house. No activity is noted, nor any vehicles observed outside the address. The observations that no activity took place on this occasion must be recorded.

All papers and computer printouts for every benefit claimed by the claimant must be checked in Department for Work and Pensions (DWP) investigations as part of the investigator's duties to follow all reasonable lines of enquiry. For example, a claimant receiving Disability related benefits and Employment Support Allowance (ESA) papers, related files and computer printouts must be checked, either physically or via DRS secure electronic storage.

There will be limitations on what Local Authorities (LA) may ask for as they can only seek information from DWP for use in the administration of Housing Benefit (HB) or Council Tax Benefit (CTB) (prior to 1 April 2013). They must obtain all information possible from the Customer Information System (CIS) prior to approaching the DWP.

Investigators are responsible for ensuring that the required material is obtained and checked. The duty to follow all reasonable lines of enquiry extends to making enquiries with third parties or other Government Departments. For example, a General Matching Service (GMS) match reveals that a claimant is receiving Tax Credits whilst in receipt of Income Support (IS).

Her Majesty's Revenue and Customs (HMRC) must be approached to check whether receipt of IS was declared on the claimant's claim for Tax Credit. A check of this nature could reveal that a criminal investigation is not appropriate.

Digitally stored material

It is essential that material held digitally, for example on compact disc (CD), a memory card or disk drive, obtained during an investigation is not accessed in any way outside of laboratory conditions, as this will alter vital information and settings and will render the evidence inadmissible in court. See [Forensic Examination](#)

Preparation of material for the prosecutor

[Code of Practice \(link is external\)](#) paragraphs 6.1 – 6.14 state that any material, which the Disclosure Officer decides does not form part of the prosecution case, must always be listed on the unused material schedules [MG6C \(link is external\)](#).

Any material, which the Disclosure Officer does not believe is sensitive, must be listed on a schedule of non-sensitive material. The schedule **must** include a statement that the Disclosure Officer does not believe the material is sensitive.

Any material, which the Disclosure Officer believes to be sensitive must be either listed on a schedule of sensitive material [MG6D \(link is external\)](#) or, in exceptional circumstances, revealed to the prosecutor separately. If there is no sensitive material, the disclosure officer **must** record this fact on a schedule of sensitive material.

Unused material schedules

Schedules prepared

In all cases, as good practice, unused material must be placed on the investigation file from the outset. Unused material schedules, both non-sensitive and sensitive, must be completed and placed on the file in all cases.

Schedules must be built up during the course of the investigation with all material, depending on its relevance, being assessed and placed on the appropriate unused material schedules, whether non-sensitive or sensitive.

Digitally stored material which is not reactive to search criteria is classed as unused material. For example, material held on a mobile phone SIM card would be classed as unused, should targeted interrogation fail to provide any search results such as a specified phone number. Unexamined digitally stored material identified during a search must also be identified on the unused material schedule. See [Attorney General's Guidelines on Disclosure \(link is external\)](#) Annex : Digital Material.

Fully updated and completed unused material schedules, and the Disclosure Officer's certificate [MG6E \(link is external\)](#), **must** be sent to the prosecuting authority when any of the circumstances described in the paragraphs covering preparation of material for the prosecutors apply.

Whilst the Crown Prosecution Service (CPS) will advise the Disclosure Officer that disclosure schedules are required and will provide a deadline by which these documents must be provided, the Disclosure Officer need not wait for this prompt from the prosecutor. This is particularly so when it is known that the case will proceed to trial or has progressed to the Crown Court. They must prepare the schedules accordingly in preparation for their requirement.

How to list material on unused material schedules

The Disclosure Officer must ensure that each item of material is listed separately on the schedules and is numbered consecutively. It is crucial that the description of each item is sufficiently clear so that the prosecutor can decide whether the material needs to be inspected before deciding whether or not the material must be disclosed.

Occasionally, it may not be practicable to list each item of material on the schedules separately. For example, there may be items of a similar or repetitive nature. These may be listed in a block and described by quantity and generic title. The Disclosure Officer must ensure that if any of the items among that material meet the test for prosecution disclosure of the respective item(s) will have to be listed and described individually.

The Disclosure Officer must not use jargon, acronyms or form numbers when describing items on the unused material schedule, for example:

- ES24
- A10
- PF11.

The schedules must contain a sufficient and meaningful description of each document in order to enable the prosecutor to make informed decisions on whether or not the material should be disclosed.

The following are examples of how items of unused material must be described on a non-sensitive material schedule:

- ES24 - signing on form covering periods 1.01.05 - 31.01.05
- A10 - note of visit by DWP visiting officer to defendant on 01.04.05
- Unused statements of witness [person's name] dated 1.04.05 - No longer employed in Wages Department
- Hard drive of computer 2 seized from letting agency containing unexamined business files for the period 2006 – March 2008.

For examples of how to complete a schedule, see [Non-Sensitive Unused Material Schedule](#).

Treatment of sensitive material

The Disclosure Officer must list on a separate Sensitive Material Schedule [MG6D \(link is external\)](#), any material the disclosure of which the Disclosure Officer decides would give rise to a real risk of serious prejudice to an important public interest and the reason for that decision. The schedule must include a statement that the Disclosure Officer decides the material is sensitive.

Examples of sensitive material include:

- material relating to national security
- material received from the intelligence and security agencies
- material relating to intelligence from foreign sources that reveals sensitive intelligence gathering methods
- material given in confidence. That is, material that has been supplied on condition the contents will not be disclosed or not disclosed at least until a subpoena has been served on the supplier. For example, information from a bank official or a doctor
- material relating to the identity of any Covert Human Intelligence Source (CHIS)
- material which relates to the use of a telephone system and which is supplied to an investigator for intelligence purposes only. In cases investigated by the Department for Work and Pensions (DWP), this must only include information obtained under Fraud Act powers.
- material revealing, either directly or indirectly, techniques and methods relied upon by an investigator in the course of a fraud investigation. For example, covert surveillance techniques or other methods of detecting benefit fraud
- **material**, the disclosure of which might facilitate the commission of other offences or hinder the prevention and detection of benefit fraud
- internal DWP or Local Authority (LA) communications. For example, a minute evaluating the strengths and weaknesses of the case
- material upon the strength of which the Police obtained a search warrant for the purposes of a DWP or LA fraud investigation
- material containing details of persons taking part in Police identification parades
- material supplied to an investigator during a fraud investigation that has been generated by an official body concerned with the regulation or supervision of bodies corporate or persons

engaged in financial activities, or which has been generated by a person retained by such a body, and

- material supplied to an investigator during a fraud investigation which relates to a child or young person and which has been generated by a LA Social Services Department, an Area Child Protection Committee or other similar party.

Communications passing between the investigator and the prosecutor must not be included on either the non-sensitive or sensitive material schedules because these communications are exempt from the disclosure requirements on the grounds that the communications constitute legal professional privilege.

This does not include any other communications. For example, between the Digital Case Management Unit (DCMU) and the investigator. Any such communications would be subject to normal disclosure rules and the appropriate entry being made on the un-used or sensitive schedule accordingly.

In exceptional circumstances, where an investigator considers that material is so sensitive that its revelation to the prosecutor by means of an entry on the sensitive material schedule is inappropriate, the existence of the material must be revealed to the prosecutor separately. In these circumstances the Disclosure Officer may wish to discuss the details with the prosecutor and record the details on the Fraud Referral And Intervention Management System (FRAIMS). See [FRAIMS guidance - Obtaining Legal Advice](#).

This **only** applies where compromising the material would be likely to lead directly to the loss of life, or indirectly threaten national security. If any cases fall into this category the prosecutor **must** be contacted as a matter of urgency.

For examples of how to complete a schedule, see [Schedule of Sensitive Material](#).

Sensitive material and Public Interest Immunity

Where the prosecution is subject to the duty of disclosure, it may seek to establish that the duty to disclose does not apply to certain classes of information on the grounds that it would not be in the public interest to disclose the information.

Inclusion of material on a sensitive material schedule will not in itself prevent that material from being disclosed.

If disclosure is requested by the defence it will be a matter for the court to decide if disclosure should be withheld on the basis that the material is covered by Public Interest Immunity (PII).

For the avoidance of doubt the only material that needs to be disclosed to the defence is material which has not been previously disclosed to the accused and which might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused.

Any material, which supports the prosecution case, or is neutral and does not assist either side's case, need not be disclosed and therefore must not be included in a PII application.

If the prosecution is in possession of sensitive material which should not have already been disclosed to the accused, that may be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused, the prosecutor will have to consider the following options:

- withdraw the case, as they do not wish to risk having to disclose the sensitive material
- disclose the material, but only after advice has been received from a lawyer at the Crown Prosecution Service or
- make a PII application to the judge who decides whether or not it is in the public interest to disclose the sensitive material to the accused. If the judge rules disclosure should be made the prosecutor will have to decide whether to disclose or withdraw the case.

03 Disclosure Officer actions

Disclosure Officer certification

1. The Disclosure Officer must certify to the prosecutor that to the best of their knowledge and belief, all material that has been retained and made available to him/her has been revealed to the prosecutor in accordance with the Code. The Disclosure Officer must sign and date the certificate [MG6E \(link is external\)](#).
2. The Disclosure Officer makes a fresh certification of the Disclosure Officer's report when unused material has been reviewed after the receipt of the defence statement, but also, whenever a schedule is otherwise given or material is otherwise revealed to the prosecutor.

Material Falls to be disclosed within a Guilty Anticipated Plea (GAP) case covered by SDC 1 certification

3. In a case where an officer anticipates after applying the Director's Guidance that a guilty plea will be entered, he/she needs to:

- Note such material in part 4 of the [MG6 \(link is external\)](#) to bring it to the attention of the prosecutor, and include a specific Note to Advocate in part 9 of the MG6.
- 4. If, exceptionally, that material is sensitive, the sensitive material schedule [MG6D \(link is external\)](#), together with an [MG6E \(link is external\)](#) as appropriate, should be used to communicate that to the prosecutor. This/they should be attached to the file in the usual way.
- 5. Where material has been identified by an officer, the prosecutor must consider whether it falls to be disclosed. If it does, it must be disclosed accordingly with the Initial Details of the Prosecution Case (IDPC) or at court, before the case is heard.

6. In a Guilty Anticipated Plea (GAP) case where there is material that falls to be disclosed under the common law duty to disclose, the SDC1 should **not** be completed. The investigator and Digital Case Management Unit (DCMU) on submission will need to make it clear that this is a deliberate omission. Otherwise there is a risk of the case being rejected as failing the admin checklist.

Completing the Disclosure Officer's report

Once the Disclosure Officer has:

- read all of the unused material
- itemised and described all material on the appropriate schedules
- applied the disclosure test to all of the material
- asterisked any material, on the sensitive and/or non-sensitive schedules, that satisfies the disclosure test and
- photocopied any items which satisfy the disclosure test, if applicable they must complete a Disclosure Officer's report [MG6E \(link is external\)](#).

8. In the Disclosure Officer's report, the Disclosure Officer must:

- list any unused material items that satisfies the prosecution disclosure test, applies to sensitive and non-sensitive material
- enter "S" in the schedule column of MG6E if it is a sensitive item
- enter "NS" in the schedule column of MG6E if it is a non-sensitive item
- list items appearing on the unused material schedules retaining their item numbers from those schedules.

9. For example, a witness statement is given by the defendant's colleague that the defendant does not work at the alleged place of employment. Further evidence is obtained and the employer states that the claimant is working. The claimant denies work. The employer's statement will be prosecution evidence and the witness statement from the colleague forms part of the unused material and is listed on the non-sensitive material schedule. Because the colleague's statement is capable of undermining the case for the prosecution against the accused, or of assisting the case for the accused, the Disclosure Officer draws the prosecutor's attention to this statement when the Disclosure Officer's report is completed.

10. In cases where surveillance has taken place, Disclosure Officers need to check for the existence of **[Redacted]** which may be held on a secure shared folder that the surveillance team has access to. This data will have been used for intelligence purposes to direct the surveillance resource deployment and will ordinarily be classed as unused sensitive material.

11. **[Redacted]** Should a defence team wish for this information to be disclosed, authority must be sought from the Grade 6 in Serious and Organised Crime (SOC).

12. In the event that there is no material, whether used, un-used or sensitive that might reasonably be considered capable of undermining the case for the prosecution, or of assisting the case for the defence, this must be certified by the Disclosure Officer on the report.

13. The Disclosure Officer must describe in the Disclosure Officer's report, any material falling into the following categories, except where it already forms part of the prosecution file, and provide the prosecuting authority with a copy of:

- records of the first description of the offender given to an investigator by a potential witness, whether or not the description differs from that of the alleged offender
- information provided by an accused person that indicates an explanation of the offence with which they have been charged
- any material casting doubt on the reliability of a witness and
- any other material, which the investigator believes, may fall within the test for prosecution disclosure in the Act.

14. The investigating officer, when contacting any Department for Work and Pensions (DWP)/Local Authority (LA) official witnesses for their dates of birth, can also ask if they have any recorded or outstanding disciplinary proceedings against them to independently disclose it to the prosecutor.

15. As part of the disclosure exercise, Crown Prosecution Service (CPS) will undertake previous conviction checks on PHOENIX against all prosecution witnesses and any disciplinary checks with the appropriate Human Resources (HR) partner in respect of DWP/LA official witnesses. For more information, see [Prosecution File Preparation](#).

16. Investigators and Disclosure Officers have an obligation to report any internal disciplinary proceedings against them on the [MG6B \(link is external\)](#).

Disclosure Officer responsibilities and actions

Subsequent action – Unused material

23. At the time of completing the unused material schedules the Disclosure Officer may not know precisely what material forms the case against the accused and the prosecutor may not have given advice about the likely relevance of particular items of material.

24. Once these matters have been determined, the Disclosure Officer must give the prosecutor amended unused material schedules when any of the following situations arise:

- material, previously on an unused schedule, subsequently becomes relevant to the investigation
- material, which now does not form part of the case against the accused, becomes unused material
- material becomes available, which has not previously been listed on the schedules.

Disclosure of material to the prosecuting authority

25. When the duty of initial disclosure arises the Disclosure Officer must provide the prosecutor with the following:

- completed unused non-sensitive material schedules
- completed unused sensitive material schedules, if there is no sensitive material, confirmation that there is no sensitive material should be annotated on the schedule
- completed and signed Disclosure Officer's report

- copies of any material which meets the prosecution disclosure test, where practicable. When it is not practicable the prosecutor makes arrangements with the Disclosure Officer to view the material.

26. The investigator retains any unused material with the exception of information about previous convictions/disciplinary procedures against witnesses for the prosecution.

27. The Disclosure Officer must draw Crown Prosecution Service's attention to any material on the schedules, which might reasonably be considered capable of undermining the case for the prosecution or of assisting the defence for disclosure purposes.

Omissions from prosecution disclosure

28. If no schedules have been provided, there are apparent omissions from the schedules, documents or other items are insufficiently described or are unclear, the prosecutor must at once take action to obtain properly completed schedules.

29. Schedules will be returned from the Crown Prosecution Service (CPS) to the Disclosure Officer for amendment if irrelevant items are included or items are listed on the wrong schedules.

30. If prosecutors remain dissatisfied with the quality or contents of the schedules the matter is raised with a senior investigating officer until it has been resolved to the satisfaction of the prosecutor.

Disclosure of unused material to the accused

31. If unused material has not already been provided to the prosecutor, and the prosecutor requests its disclosure to the accused on the grounds that it falls within the test of prosecution disclosure, or a court has ordered its disclosure, the Disclosure Officer must disclose it to the accused. In practice disclosure, as directed by the Crown Prosecution Service (CPS), is made to the legal representatives of the accused.

32. If the unused material has already been copied to the prosecutor, and it is to be disclosed, it is a matter of agreement between the Disclosure Officer and the prosecutor as to who should disclose the material to the accused or their legal representatives.

33. In Department for Work and Pensions (DWP)/Local Authority (LA) joint investigations, unused material must be retained at the office of investigation. Should the Defence wish to have sight of such material they must make representations to CPS who will decide whether to provide copies of the material for the defence or invite the Defence representative to view material at an agreed venue. This will be at a CPS office or the investigator's work place.

34. Disclosure Officers and/or investigating officers must not disclose unused material to the accused or their legal representatives, unless CPS have seen this material first and sanctioned its disclosure to the defence.

Material relevant to sentence

35. In all cases the prosecutor must consider disclosing in the interests of justice any material that is relevant to sentence, for example, information which might mitigate the seriousness of the offence.

36. If, during the course of an investigation, the Disclosure Officer or investigation officer becomes aware of any information or the existence of any material, which may be relevant to the sentencing process such information or material should be immediately brought to the attention of the prosecutor.

04 Material held by other organisations

Government departments or Crown Bodies

1. Where it appears to an investigator, Disclosure Officer or Prosecutor that another government department or Crown Body has material that is relevant to an issue in the case, reasonable steps should be taken to identify and consider such material.
2. Prosecutors should inform the Department or other bodies of the nature of its case and the relevant issues in respect of which the department or body might possess relevant material. The Disclosure Officer should request any relevant material held by that department or body.
3. If access to the material is not permitted, or the department or body state they have no relevant material, but the Disclosure Officer or investigator believe relevant material is held, the Disclosure Officer or investigator should consult with the prosecutor to decide what further steps are to be taken. In these circumstances record the details on FRAIMS, see [FRAIMS guidance - Obtaining Legal Advice](#).
4. For more information, refer to the [Attorney General's Guidelines on Disclosure \(link is external\)](#).

Other agencies

5. Similar considerations apply to information that the Disclosure Officer, investigator or prosecutor believe is held by a third party agency, such as a Local Authority, school or Social Services Department. If the material or the information is likely to reasonably be considered capable of undermining the prosecution case or of assisting the case for the accused, prosecutors should take steps to obtain the material.
6. If the third party agency declines or refuses any access to the material the matter should not be left. If, despite any reasons offered by the third party, it is still believed that it is reasonable to seek production of the material or information, and the requirements of section 2 of the Criminal Procedure (Attendance of Witnesses) Act 1965 or, as appropriate, section 97 of the Magistrates' Court Act 1980 are satisfied, the prosecutor or investigator should apply for a witness summons causing a representative of the third party to produce the material to the Court.
7. Relevant information which comes to the knowledge of investigators or the prosecution as a result of liaison with third parties should be recorded in a durable or retrievable form.

05 Defence disclosure

Defence statements

1. Under Section 5 of the Criminal Procedures and Investigations Act (CPIA) 1996, once initial disclosure has taken place and the case has been committed to the Crown Court, the accused must give a defence statement to the prosecutor.
2. The defence statement is a written statement setting out the nature of the defence and the matters on which the accused takes issue with the prosecution and with the reasons.
3. The defence statement must be served within 14 working days of the prosecutions compliance of initial disclosure.
4. CPIA, as amended by section 33 of the Criminal Justice Act (CJA) 2003, amends the defence disclosure requirements. The accused must provide a more detailed defence statement than was previously required. The accused must set out:
 - the nature of their defence including any particular defences on which the accused intends to rely
 - the facts on which they take issue with the prosecution and why issue is taken in relation to each matter and
 - any points of law they wish to take.

5. Details of alibi witnesses must include the witness's name, address and date of birth or as many of those details as are known to the accused when the defence statement is given.
6. CPIA, as amended by section 34 of the CJA 2003, requires the accused to provide to both the Court and the prosecutor a notice setting out whether they intend to call witnesses at their trial. The notice must state the name, address and date of birth of each witness, or as many of those details as are known to the accused when the notice is given.
7. CPIA, as amended by section 35 of the CJA 2003, requires the accused to provide to the court and the prosecutor the names and addresses of experts instructed by the accused.

Defence disclosure omissions

8. If the accused, or his solicitors, fail to comply with the provisions on defence disclosure it will be open to the court or jury to draw such inferences as appear appropriate in deciding whether the accused is guilty of the offence concerned.
9. A code of practice covering interviewing defence witnesses has been introduced under s21A of CPIA 1996 and s40 of CJA 2003.
10. Investigators must read and understand this code and have prior regard to it when considering the interviewing of defence witnesses. The code deals with the notification to interviewees, the accused and their respective legal representatives when the prosecution wish to interview defence witnesses, and the conducting of such interviews. The investigator, following advice from the prosecutor, will undertake any such interviews.
11. In cases tried in Magistrates' Court, whether summary or either way cases, the defence may provide a defence statement voluntarily.
12. Any such defence statement will have to satisfy the provisions set out in the preceding paragraphs.

Action following the receipt of a defence statement

13. Under its continuing duty of disclosure, the prosecution must keep under constant review the question whether at any given time and, in particular, following the receipt of a defence statement, there is prosecution material which:

- might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused and
- has not been disclosed to the accused.

14. If there is any such material as described above, the prosecutor must disclose it to the accused as soon as is reasonably practicable.

15. In cases prosecuted by the Crown Prosecution Service (CPS), the defence statement, when received, will be copied and sent to the Disclosure Officer with the request that the Disclosure Officer undertakes further disclosure within a prescribed timescale.

Defence statements – Disclosure Officer action

16. After a defence statement has been provided, the Disclosure Officer must review the material, which has been retained, and must draw the attention of the prosecutor to any material, that might reasonably be considered capable of undermining the case for the prosecution or of assisting the case for the accused.

17. The Disclosure Officer must be alert to the fact that the Code imposes on the prosecutor, for the duration of the criminal proceedings, an obligation to disclose material, which meets the tests of prosecution disclosure

18. The Disclosure Officer must:

- read the defence statement
- read the unused material again and

- consider, in the light of the defence statement, whether there is any material not previously disclosed to the accused which might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused.
19. If the Disclosure Officer identifies material meeting the above test, the material:
- must be listed on the completed Disclosure Officer's report and
 - must be identified in exactly the same way as it is described on the unused material schedules.
20. The Disclosure Officer should send the completed and signed Disclosure Officer's report, [MG6E \(link is external\)](#), to the Crown Prosecution Service (CPS) with copies of any identified disclosure material within the required timescale. If there is no material to be disclosed, the Disclosure Officer must certify this in the Disclosure Officer's report, MG6E.
21. The prosecutor considers the Disclosure Officer's report and writes to the Defence confirming either that there is no disclosure material or there is Disclosure Material enclosing copies or inviting the defence to arrange an appointment to view the material.
22. Failure to provide disclosure within the required timescale may result in dismissal, withdrawal and criticism at court.

06 Retention of material

Retention of material

1. The investigator must retain material obtained in a criminal investigation, which may be relevant to the investigation.
2. Material may be photographed, video-recorded, captured digitally or otherwise retained in the form of a copy rather than the original at any time, if the original is:
 - perishable
 - supplied to the investigator rather than generated by him and is to be returned to its owner or
 - reasonable in all the circumstances to retain a copy.
3. Where material has been seized in the exercise of the powers of seizure conferred by the Police and Criminal Evidence Act (PACE) 1984, the duty to retain it under this Code is subject to the provisions on the retention of seized material in section 22 of that Act.
4. If the Officer in Charge of an investigation becomes aware as a result of developments in the case that material previously examined but not retained, because it was not thought to be relevant, may become relevant to the investigation, they must take action to obtain it to ensure that it is retained for further inspection or for production in Court if required.
5. The duty to retain material includes the following categories, where it may be relevant to the investigation:
 - crime reports, including crime report forms, relevant parts of incident report books or police officer's notebooks
 - custody records
 - records which are derived from tapes of telephone messages containing descriptions of an alleged offence or offender, in police cases this would include 999 calls
 - final versions of witness statements and draft versions where their content differs from the final version, including any exhibits mentioned, unless these have been returned to their owner on the understanding that they are produced in Court if required
 - interview records or notes, written records, or audio or video tapes, of interviews with actual or potential witnesses or suspects
 - communications between the investigator and experts such as forensic scientists, reports of work carried out by experts, and schedules of scientific material prepared by the expert investigator, for the purposes of criminal proceedings

- records of the first description of a suspect by each potential witness who purports to identify or describe the suspect, whether or not the description differs from that of subsequent descriptions by that or other witnesses
 - any material casting doubt on the reliability of a witness.
6. The duty to retain material falling into these categories does not extend to items, which are ancillary to such material and possess no independent significance, for example, duplicate copies of records or reports.

Length of time for which material is to be retained

7. All material, which may be relevant to the investigation, must be retained until a decision is taken on whether to institute proceedings against a person for an offence.

8. If a criminal investigation results in proceedings being instituted, all material, which may be relevant must be retained at least until the accused is acquitted or convicted or the prosecutor decides not to proceed with the case.

9. Where the accused is convicted, all material which may be relevant must be retained in accordance with Criminal Procedures and Investigation Act (CPIA) 1996 at least until:

- the convicted person is released from custody, or discharged from hospital, in cases where the court imposes a custodial sentence or a hospital order
- six months from the date of conviction, in all other cases.

10. If the court imposes a custodial sentence or hospital order and the convicted person is released from custody or discharged from hospital earlier than six months from the date of conviction, all material which may be relevant must be retained at least six months from the date of conviction.

11. If an appeal against conviction is in progress when the release or discharge occurs, or at the end of the period of six months specified in the preceding paragraphs, all material, which may be relevant must be retained until the appeal is determined.

12. Similarly, if the Criminal Cases Review Commission is considering an application, all material which may be relevant must be retained at least until the Commission decides not to refer the case to the Court of Appeal or the Crown Court, or until the Court determines the appeal resulting from the reference to the Commission.

07 Material Schedule examples

Non-Sensitive Unused Material Schedule

See [Non-Sensitive Unused Material - Notes](#)

MG6C

Schedule of Non-Sensitive Unused Material

(Restricted when complete)

Reference Name/Number

1-12345678

R v John Smith

Is there any material in this case which has not been examined by either the investigating officer or disclosure officer?	Yes: Please complete and attach MG11 witness statement giving details of material and why it has not been examined (refer to the Disclosure Guidance)	<input type="checkbox"/>
	No:	<input type="checkbox"/>

The Disclosure Officer believes that the following material, which does not form part of the prosecution case, is NOT SENSITIVE	FOR CPS USE:	D:	Disclose to defence
		I:	Defence may inspect
		CND:	Clearly not disclosable

Item No:	Description and Relevance (Give sufficient detail for the CPS to decide if material should be disclosed or requires more detailed examination)	Location		Enter D I CND	Comment
1. [Redacted]		DWP Office			
2. [Redacted]		DWP Office			
3.[Redacted]		DWP Office			
4. [Redacted]		DWP Office			

5. RIPA Authorisations	DWP evidence file			
6. [Redacted]	DWP evidence file			
7. [Redacted]	DWP evidence file			
8. [Redacted]	DWP evidence file			

Signature:	Reviewing Lawyers Signature:		
Date:	Print Name:	Date:	
Page 1			

Non- Sensitive Unused Material Schedule - Notes

1. The unused material schedule contains material, which has been obtained as a result of the criminal investigation. In the scenario that has been described it has been determined that the items in question should not form part of the prosecution case (the evidence) and should therefore be retained as unused material.

2. The prosecution could however, elect to use any of this material should the need arise. In that event the prosecution would have to write to the defence and inform them of this position.

3. **Items 1 – 4** of the schedule are self-explanatory.

4. **Item 5:** refers to the RIPA authorisations. It is a common, but mistaken, belief that RIPA authorisations should be included on the sensitive material schedule. If there has been surveillance on a case defence will know that RIPA authorisations exist because RIPA authorisation is a prerequisite before surveillance can be undertaken. However, the disclosure officer must always examine the RIPA authorisations/applications carefully just in case the authorisations/applications themselves contain entries that are sensitive. So in this scenario the investigator may have unwisely included an entry on the RIPA form to the effect that surveillance is necessary following the receipt of information from Julie Clarke (the informant). Clearly, in such circumstances that part of the RIPA application would not be disclosed to the defence.

5. **Item 6:** refers to the [Redacted]

6. **Item 7:** [Redacted]

7. **Item 8:** [Redacted]

Schedule of Sensitive Material

See notes – [Sensitive Material Schedule - Notes](#)

MG6D		
Restricted/Confidential		
For FIS/FIS O and Crown Prosecution Service only when completed		
Schedule Of Sensitive Material		
R v John Smith	Reference Name/Number	1-12345678

Does this case have any sensitive material?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
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The Disclosure Officer believes that the following material, which does not form part of the prosecution case, is Sensitive.

* check box if copy supplied to Crown Prosecution Service

Item No.	Description	Reason for sensitivity	*	FOR SOL USE		
				Agree sensitive Y/N	Court application Y/N	SOL views
1.	[Redacted]	[Redacted]	<input type="checkbox"/>			
2.	[Redacted]	[Redacted]	<input type="checkbox"/>			

			<input type="checkbox"/>			
			<input type="checkbox"/>			
			<input type="checkbox"/>			
			<input type="checkbox"/>			

Signature:		Reviewing Lawyers Signature:	
Date:		Print Name:	Date:
Page 1			

Sensitive Material Schedule - Notes

1. [Redacted]
2. [Redacted]
3. [Redacted]

Decision Making

00 Introduction

1. The terminology used throughout this section relates mainly to the Department for Work and Pensions (DWP), where the role of the Decision Maker (DM) is a clearly defined one.
2. References to claimant within this section will include other affected parties such as landlords, appointees and agents.

Decision Making principles

3. Claim and application decisions are made by Decision Makers (DMs) on behalf of the Secretary of State under the Carltona principle.
4. The Carltona principle states that the Secretary of State could not possibly take every decision for which he/she is constitutionally responsible and accountable to Parliament. The Secretary of State is therefore entitled to authorise a person of suitable authority to exercise these functions on his behalf.
5. Only DMs can make a decision on entitlement and/or awards of benefit. These decisions carry appeal and other rights. DMs also make decisions that do not carry appeal rights, such as the suspension of benefits.
6. An investigator must not in any circumstance exercise DM powers.
7. The DM must make a decision after having applied the law, including any relevant case law, to the facts of each case and considered all the evidence presented by the investigator. Where the legislation specifies or implies discretion, the DM's judgement must be reasonable and any decision made with unbiased discretion.
8. Generally, each decision must be given on the facts as they exist at the date of the decision and not in anticipation of future events. However, there are some variations and exceptions, such as when a claim is made in advance of the day when entitlement would start, for example, payment in lieu of notice defers entitlement or a person moving into accommodation at a future date.
9. A fact is either a relevant circumstance or an occurrence which:
 - exists at the time the decision is given or
 - is known, accepted or proven to be true.

Outcome Decisions

10. The most important issue for the claimant who makes a claim or application, is the outcome of that claim or application. The claimant wants to know whether a claim has been successful and if so, how much benefit will be paid and from when.
11. The decision on a claim or application is called the outcome decision because it informs the claimant of the outcome of their claim or application. The claimant has the right to ask for the outcome decision to be looked at again, reconsidered or revised and/or appeal against it if they are not happy.
12. The notification of an outcome decision is issued to the claimant either clerically or by computer. The notification contains:
 - information which gives the effect of the decision, such as whether there is entitlement to benefit and where appropriate, the amount payable and when it is payable from and to
 - information that the person who is notified of the outcome decision can ask for a written explanation of the reasons for that decision, where it has not already been provided and
 - an explanation of their dispute and appeal rights.
13. A person who is notified of an outcome decision and who is unhappy with that decision may request a reconsideration of the decision or appeal against it.

Explanation of decisions

14. A claimant may ask for a verbal explanation of the outcome decision at any time. The officer giving the explanation must provide a complete, personalised explanation covering all the points the claimant has raised in their enquiry.

15. Ideally the person giving the explanation should be a Decision Maker (DM). However, the explanation could be given by any member of staff, preferably someone with relevant decision making experience of that benefit.

16. If the outcome decision notice does not include a written statement of reasons for that decision, a claimant can ask for a written statement of reasons within one calendar month of the date of the decision. This should be issued within 14 days of the request, ideally by a DM. If it is issued and received within the one month dispute period, that period is extended by 14 days. If it is issued such that it is received outside that period, the extra 14 days commences from that date it is received.

17. A Counter Fraud Compliance Directorate (CFCD) investigator should not give verbal explanations or provide written statements on overpayment decisions. The claimant should always be referred to the Benefit Processing DM for details concerning the calculation of the overpayment of benefit and to the Debt Management Service (DMS) DM for details of the recoverability of the overpaid benefit.

Claimant disputes and dispute periods

18. A dispute occurs when a claimant is unhappy with a decision and wishes to challenge it. A Decision Maker (DM) can revise the decision if it is appropriate to do so. For further information see the [Decision Makers Guide \(link is external\)](#).

Reconsideration – revised decisions disputes in fraud cases

19. A claimant/third party who is being investigated for benefit fraud may dispute an outcome or revised decision. No special action is required in fraud cases except in cases where it is intended to offer the claimant an Administrative Penalty. Further information can be found in [Administrative Penalties](#).

Application by the Secretary of State

20. It is not only claimants who can apply for a decision to be reconsidered. Officers such as investigators, benefit section officers and child support officers can also ask the DM to reconsider the original outcome decision.

21. In certain circumstances, such as in fraud cases, a decision may be revised at any time from the date of claim. This applies where the DM considers the decision to be incorrect from the date of claim for reasons such as:

- the decision was given in ignorance or mistake as to a material fact which was caused by the claimant resulting in an overpayment
- award of another benefit
- changes to another benefit or
- official error identified.

22. For example, if a fraud investigation revealed that a person was working and claiming, a DM could revise the outcome decision if the claim for benefit was fraudulent from the outset. Alternatively, if the fraud started after the date of the outcome decision, the decision can be superseded.

Superseded decision

23. Supersession is the act of changing an outcome decision from a date later than the date of the original decision. A superseding decision, which reduces the claimant's benefit, becomes effective from a date that is later than the date of the original decision because it's usually based on a change in circumstances.

Example

If the original decision is to award benefit from 1/11/2005 and the claimant starts remunerative work on 12/11/2005, the outcome decision would not be changed from 1/11/2005 as no change had occurred at this time. The decision would be changed from 12/11/2005.

A decision may be superseded where it is challenged outside the one-month period. Additionally, an unsuccessful late application for revision may still result in a decision being superseded.

01 Obtaining a Decision Maker's decision

decision making

An Investigator must not exercise Decision Makers (DMs) powers whilst engaged in fraud duties. All DMs must be suitably trained and experienced to make quality decisions on behalf of the Secretary of State.

Investigators engaged in other duties

Investigators temporarily engaged in other duties may exercise DM powers while they are carrying out duties unrelated to fraud, providing they have been trained to do so. However, they must not make decisions on any case that is the subject of current fraud action. Nor should they exercise DM powers on any case in which they have been part of the investigation. This also applies to other staff engaged in full or part-time in fraud work.

Identification of sensitive information and [RM7 \(link is external\)](#) or sensitive information check

A DM is entitled to consider all the information put to them when reaching their decision. Remove all sensitive material before submission to the DM. For further information see Removal of sensitive material.

If there is no indication that information is sensitive, the DM may treat it as being no different to any other information passed to them.

If the DM then uses this information, they must then disclose this to the claimant in the event of an appeal. This may result in revealing the identity or address of an informant or witness. In the event that the department discloses any sensitive or collateral information inappropriately, it is essential that you advise your line manager, the relevant Information Asset Owner (IAO) and the relevant [Security Advisor](#). Notify any incidents involving non-Department for Work and Pensions (DWP) data to both the DWP IAO and the original IAO.

For more information on sensitive information, see [Treatment of Information](#).

Information needed for a Decision Maker's decision

When conducting enquiries, consider what information the Decision Maker (DM) might need to consider revising or superseding an outcome decision. If there is any doubt about the information required, discuss the case with the DM in order to obtain the correct information.

The DM needs enough information to be able to decide:

- which decision to revise or supersede

- the grounds for revising or superseding the decision; and
- if appropriate, the date from which to make any revised or superseded payment.

A summary of the reasons for the submission should also be included. This is important as it enables the DM to reach a decision quickly. If applicable a [schedule of assets](#) and/or a weekly [schedule of earnings](#) or a monthly [schedule of earnings](#) must be included, unless it is more appropriate to provide [redacted](#) statements. This will also ensure that the DM is aware of all the information available for decision making purposes.

Make sure the referral form is completed in all cases when sending a file to the DM.

When considering a referral to DMs you must adhere to the [National File Standards](#) (England & Wales) or [Scottish case preparation](#) (Scotland) and also refer to [points to prove](#) for an overview of what evidence must be considered, but for a more detailed instruction please refer to the relevant benefit section later in this guidance, to see what must be considered for different benefit areas.

Abroad Fraud Cases

In some specific instances where a claimant receives a contribution based benefit (SDA, IB, MA and ESA) an initial referral to the International Pension Centre (IPC) **for a decision is required and this should be done prior to your submission to [Redacted]** if either of the following circumstances apply below:

- the claimant is in another [European Economic Area \(EEA\) \(link is external\)](#) country, or Switzerland, either permanently or for a temporary period lasting more than four weeks
- there is an issue IPC can assist with, for example the claimant has asked for benefit to be paid into a Non UK based bank account.

There is no IPC involvement if:

- the claimant is abroad for a temporary period of less than four weeks, or
- the claimant is abroad in a country outside the EEA or Switzerland for either a temporary period over four weeks or permanently.

Cases should be referred to IPC via **[Redacted]** on receipt of your decision from IPC attach it to your evidence and accompanying Ref2 and continue to follow the instructions for an e submission.

Income-based benefits (non contribution based) are not subject to an International Pension Centre (IPC) referral prior to your submission to **[Redacted]**.

RS Web

Departmental records held in remote storage are often required. Obtain these via RS Web by an investigator who has access to the system.

Carer's Allowance (CA) have requested that where their documents are retrieved from RS Web, that an entry is made on the Carer's Allowance Computer System (CACS) notepad of this action. Currently, Investigations staff do not have access to this system and so it has been agreed that locally held pro-forma must be used and the Carer's Allowance Unit (CAU) RS Web team will update the system accordingly.

When Carer's Allowance documents are returned, the second locally held pro-forma must be completed to remove the notepad entry.

Return all documents requested directly to RS Web when all action is complete.

Personal Independence Payment (PIP) documents are not available via RS Web.

Removal or redaction of sensitive material

When submitting evidence to a Benefit Processing Decision Maker (DM), whether the evidence is to support the original decision or any subsequent evidence is forwarded, investigators must consider the requirements of the General Data Protection Regulations (GDPR) and other disclosure requirements, making sure only information that is necessary, proportionate and relevant is included.

The investigator must complete an [RM7/Sensitive Information](#) check before any information is referred to the DM and must remove or **redact** all information which is considered to be sensitive. If there is any sensitive material you will need to photocopy the original, redact the sensitive information and then scan this, (as you must not alter any original).

Where DM consideration will be sought from multiple places, such as DWP Benefits, Local Authorities, and HMRC, a single RM7 action to cover all such evidence and the recording of the action within FRAIMS can be done in one task, where it is all to be sent at the same time.

Where any new information is received an RM7 check must be conducted each time information is shared outside of CFCD

For electronic referrals to DMU there is no requirement for a paper copy of the sensitive information recorded sheet (RM7) to be completed, but the actions and outcomes of the RM7/Sensitive Information check must be recorded on the FRAIMS case. This applies regardless of the type of decision to be considered by the DM.

On completion, the case must be passed to the Team Leader (TL) who must complete a confirmation of the [RM7/Sensitive Information check](#)

Some documents, such as bank statements applicable to an alleged partner that contains relevant information, may also contain sensitive and or irrelevant collateral information. This could include the bank account number and transactional details unrelated to the investigation. It is important that this sensitive or collateral information is **redacted** prior to submission to the DM. Original documents must remain intact, a copy must be made and the copy redacted.

For further information about what should be considered as sensitive see the section on [Evidence Files – Sensitive Information](#)

Note: Not completing the RM7 sensitive check can mean:

- you fail to comply with the GDPR and fail to keep customer information secure
- potential to break security protocol, issuing information to those not entitled to see it
- you fail to provide an audit trail in compliance with legal requirements and potential for costly legal challenge
- avoidable complaints
- potential for avoidable reputational damage and customer compensation payments.

These actions must be undertaken every time information is referred to a Benefit Processing Decision Maker (DM). This also includes all referrals to DMs in Pensions, Disability and Carers Service (PDCS), other Government Departments and Local Authorities etc.

For further information about what should be considered as sensitive see the section on [Evidence Files – Sensitive Information](#).

The actions and outcome of the RM7 check must be noted on the FRAIMS activity.

Confirmation of the check must also be recorded on FRAIMS by the Team Leader.

For further information see FRAIMS guidance - Benefit Decision Required.

Sending a file to the Pensions, Disability and Carer's Service

All working age benefits, Pension Credit (PC) and Carers Allowance (CA) decision referrals must be sent electronically. The investigator must produce an electronic submission to the relevant Decision Making Unit (DMU) in:

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Scan and attach to an email each piece of evidence. Documents already in an electronic format, such as Interview Under Caution (IUC) transcripts and the REF2 form must also be attached to the email. A summary of the main points to be considered must also be attached to the email.

It is essential at this stage, that before any information is sent to the Decision Maker, all sensitive information is removed or [redacted](#) and the [RM7 or sensitive information check](#) conducted and outcomes recorded on the FRAIMS case by the investigator and verified by the Team Leader. See [e-Evidence submissions](#).

Make sure actions are recorded on [FRAIMS](#)

For additional guidance on electronic submissions, see [03 Overpayments Guide for FIS and DMUs \(link is external\)](#).

e-Evidence submissions

Ensure the DMU is associated to the case. See [FRAIMS guidance – Decision Making](#).

Checking for Social Fund interest and Cold Weather Payments

Before submitting the [REF2 \(link is external\)](#), investigators must complete the **Social Fund Interest** and **Cold Weather Payment** (CWP) field in all cases.

To complete these fields correctly, investigators must access the Customer Information Service (CIS) to identify if there is any Social Fund (SF) interest. Take the following steps to check CIS:

Step	Action
1.	Access the CIS home screen, enter the National Insurance Number (NINo), select Enter .
2.	On the Account Summary screen, select Interest History from the top scroll bar.
3.	Check if there is any SF history during the period of the potential fraud, note the screen display five entries per page, select Next to see further pages.

Record the details by completing the 'Social Fund Interest' field on the REF2 by inputting:

- yes – where the SF interest start or end date overlaps the dates in the fraud referral or there is an SF interest with no end date
- no – where there is no SF interest recorded or the SF interest history starts and ends outside the period of the fraud.

In the CWP applies box, select Yes or No to show if a Cold weather Payment applies.

For guidance on completing the REF2 see the REF 2 Users guide – [Getting started 'FIS' \(link is external\)](#).

Housing Benefit and or Council Tax Reduction decision required

Where the investigator decides that they have sufficient evidence to submit the case to the Local Authority (LA) for a decision to be made on the Housing Benefit or Council Tax Benefit (prior to 1 April 2013) (HB or CTB) award, complete part 4.1 of the Local Authority Information Exchange Form ([LAIEF \(link is external\)](#)) in A-Z requesting adjudication and overpayment calculation as required.

Ensure the [REF2 \(link is external\)](#), case summary and details of the DWP benefit decisions are embedded on the LAIEF. This will enable the LA decision maker to make an informed decision. It is essential at this stage that before any information is sent to the Local Authority Decision Maker, all sensitive information is removed or [redacted](#) and the [RM7 or sensitive information check](#) conducted.

Send the documents to the LA Single Point of Contact (SPOC) by email.

On receipt of the LA reply, the investigator must consider if the case is [suitable for prosecution](#). If the case is not suitable for prosecution, take case closure action by completing part 8.1 of the LAIEF and email it to the LA SPOC.

Her Majesty's Revenue and Customs Tax Credit cases

Where the investigator decides that that have sufficient evidence to submit the case to Her Majesty's Revenue and Customs (HMRC) for a decision on Tax Credits, it is essential that before any information is sent to HMRC Decision Maker, all sensitive information is removed or [redacted](#) and the [RM7 \(link is external\)](#) or sensitive information check conducted, see [Obtaining a HMRC Tax Credit Decision](#).

Pension cases

There is a standardised electronic referral process for Pension Credit cases submitted by the Counter Fraud Compliance Directorate. The types of referral covered are:

- request to a decision maker to revise or supersede Pension Credit decisions, including any subsequent overpayment calculation
- request to have Pension Credit suspended

It is essential at this stage that before any information is sent to the Pensions Service Decision Maker, all sensitive information is removed or [redacted](#) and the [RM7 or sensitive information check](#) conducted.

Notification of a referral must be sent to the dedicated email inbox at **[Redacted]**. When preparing the referral, instructions in [Electronic submissions \(e-Evidence\)](#) must be followed.

Referrals must be associated on the Fraud Referral And Intervention Management System (FRAIMS) to the appropriate **[Redacted]**.

Where applicable, the case must be referred with a completed REF2 within the E Submission.

Bereavement Benefit and Bereavement Support Payment

Referrals for Bereavement Support Payment (BSP) and Bereavement Benefit (BB) are dealt with via **[Redacted]** (BU) electronically by submission to **[Redacted]**.

The E submission must be accompanied by a REF 2, and be supported by evidence which has had an [RM7 or sensitive information check](#) conducted.

The BSP/BB team will notify Fraud via email attaching an LT54, which will also be upload into Document Repository System (DRS) under the associated National Insurance number (NINO).

02 Disability benefit DM instructions

AA/DLA & PIP are not means tested benefits so any investigation into fraud must concentrate on conditionality and the customers declared disabilities. It is therefore essential to establish and fully understand what the customer has declared as their restrictions, and the

investigation must prove that the customer has either knowingly misrepresented the truth from the outset or has failed to report an improvement in their capabilities during the claim.

Case files and initial actions

For AA and DLA claims, the casepapers must be retrieved from RS Web by an investigator with appropriate access to remote storage.

For PIP cases the claim documents should be held in DRS.

For DLA/AA cases general [conditionality rules](#) can be found in operational guidance. There is a [PIP payment handbook \(link is external\)](#) which provides information around payability and conditionality of PIP.

Cases come through the Case Preparation team who will consider whether the case is prosecutable, and whether the allegation is in conflict with the customers declared restrictions [Redacted].

Where there are only disability benefits in payment and there are no grounds for an investigation then the case should be considered for closure.

Note: an out of sequence review will only be acted upon if there is information to counter the existing medical statements. If this is not held then consideration must be given to closure of the cases.

Where an out of sequence review is appropriate,

complete the [FCA040 \(link is external\)](#) and refer to the relevant MOU [Redacted] (40 *

Personal data (absolute exemption in relation only to information that is the personal data of the applicant).

- for PIP cases
- refer through the DLA SPOC to inform operations that an out of sequence review is required for DLA cases.

If an investigation into another benefit throws doubt upon declared disability during the investigation then case papers should be retrieved and the disability benefit investigated in tandem with the other benefit/s.

Evidence to consider obtaining

The most important aspect of an investigation into disability benefits is understanding exactly what the customer has declared they can and cannot do, and gathering evidence which either proves or disproves their statement. Once established that there are contradictions to what has been declared then further intelligent questioning is needed at an IUC, to ascertain if the claim was based on a false declaration from the outset or establish an evidenced date of when the customers capabilities have improved and any reasons for the improvement.

Claim forms and applications should be obtained in all cases to check the levels of declared disability and any restrictions they have. In PIP cases you should also get the assessment form to see what they have declared to the medical professionals and also check vital information in social and occupational history.

Things to consider when conducting enquiries and surveillance for investigating doubtful disability:

[Redacted]

In all of the above scenarios consider if a witness statement is necessary, obtain all statements which would support the investigation and possible prosecution.

Always consider checking with other government departments to check if they have information that was not known to the DWP.

Considering all the points contained here and gathering as much information as possible, and recording this in the relevant parts of the [PIP DLA referral](#) provide DMs with enough evidence to provide a full and robust decision. Which in turn is far more unlikely to be contested or overturned by a tribunal judge.

For further information see [Evidence Gathering](#)

RM7 sensitivity checks and redaction

When submitting evidence to a Benefit Processing Decision Maker (DM), whether the evidence is to support the original decision or any subsequent evidence is forwarded, investigators must consider the requirements of the General Data Protection Regulations (GDPR) and other disclosure requirements, making sure only information that is necessary, proportionate and relevant is included.

The investigator must complete an [RM7/Sensitive Information](#) check before any information is referred to the DM and must remove or redact all information which is considered to be sensitive. If there is any sensitive material that needs redacting, you will need to photocopy the original document and redact the photocopy. The original document should be retained unredacted.

Where evidence put to a DM has been obtained from multiple places, such as DWP Benefits, Local Authorities, and HMRC, a single RM7 action to cover all such evidence and the recording of the action within FRAIMS can be done in one task.

For electronic referrals to DMU there is no requirement for a paper copy of the sensitive information recorded sheet (RM7) to be completed, but the actions and outcomes of the RM7/Sensitive Information check must be recorded on the FRAIMS case. This applies regardless of the type of decision to be considered by the DM.

For clerical referrals for DLA and PIP the RM7 must be manually completed and signed by the TFI, and sent with the referral file and evidence for the DM.

On completion, the case must be passed to the Team Leader (TL) who must complete a confirmation of the RM7/Sensitive Information check

Redaction

Information provided to DM's should be relevant, proportionate and necessary for them to be able to provide a decision, including where suspensions are required. Any information which bears no relevance to the required decision should be removed or redacted. The decision to redact sensitive material is the responsibility of the investigations team alone and requests for material to be unredacted should be carefully considered as to whether the requested information is vital to the DM's for making a decision.

This is to ensure that sensitive information is not inappropriately disclosed, here are some principles to consider when deciding what needs to be redacted and what does not:

- Any evidence which has been presented to a claimant in an IUC, including details of 3rd parties, alleged partners or children does not need to be redacted
- If further information has been asked for to prove or disprove a case as a result of the IUC or rebuttal, this can also be submitted to DM's without being redacted
- Witness statements should include evidentially relevant details without the need to expose specific identities
- Bank statements should only have sufficient information to identify and link them to a case, and to provide DM's any evidence which may be of use, anything superfluous or sensitive (e.g. bank account numbers) should be redacted

- Evidence that may be materially relevant to a fair decision must not be withheld. This includes information required for the assessment of the claim details of associated parties.
- Evidence which has been removed or redacted for the purpose of the IUC should remain redacted when referring to DM's, There may be exceptions where evidence may be deemed relevant to make a fair decision, but this must be agreed with the Team Leader and clearly annotated in FRAIMS
- If the DM requires further clarity which is pertinent to their decision, they will request it from the investigator

Tribunal

Where an appeal has been submitted and it ends in a tribunal, careful consideration should be given to sharing previously redacted information on a case by case basis. However DWP has a responsibility and a duty of care to protect the identities of people who are not materially relevant to a case and this information should not be divulged.

For further information about what should be considered as sensitive see the section on [Evidence Files – Sensitive Information](#)

Note: Not completing the RM7 sensitive check can mean:

- *you fail to comply with GDPR and fail to keep customer information secure*
- *potential to break security protocol, issuing information to those not entitled to see it*
- *you fail to provide an audit trail in compliance with legal requirements and potential for costly legal challenge*
- *avoidable complaints*
- *potential for avoidable reputational damage and customer compensation payments.*

These actions must be undertaken every time information is referred to a Benefit Processing Decision Maker (DM). This also includes all referrals to DMs in DWP operations, other Government Departments and Local Authorities etc.

For further information about what should be considered as sensitive see the section on [Evidence Files – Sensitive Information](#).

The actions and outcome of the RM7 check must be noted on the FRAIMS activity.

Confirmation of the check must also be recorded on FRAIMS by the Team Leader.

For further information see FRAIMS guidance - Benefit Decision Required

Decision Makers actions

The Decision Maker (DM) Command Manager checks that no sensitive material is held in the part papers and then refers to the DM who will conduct a further check. If information that may be sensitive is identified, the file will be returned to the Investigator via the Team Leader or Higher Investigations Leader.

The Investigator must reconsider whether the information is sensitive and if so, annotate and remove it, for more information see [Sensitive Information](#). If not, the Investigator must note their reasons on the clerical case and in the activities on FRAIMS. [See RM7 or sensitive information check](#).

Return the case to the DM Command Managers via the Team Leader or Higher Investigations Leader, who must endorse the investigator's reasoning.

Where an appeal is received, the nominated appeals DM Command Managers within operations, checks for any sensitive information held. If information that may be sensitive is identified, they will identify whether the information has been considered by the DM in making their decision. In all cases the DM must consult with Counter Fraud and Compliance Investigations Team before providing any documents for disclosure to the claimant.

Where the information has been considered by the DM, the Team Leader or Higher Investigations Leader must decide whether the sensitive information should be withdrawn. If so, the DM will be required to reconsider their decision based on the evidence now available. If not, the Team Leader or Higher Investigations Leader is required to document the reasons

why they do not believe that the information is sensitive. Return the file to the appeals Band D to continue their action.

CRT team

Cases submitted to the Disability Service are not part of the e-Evidence process and will remain clerical. Submit the evidence to the Decision Maker (DM) in a logical order. For more information, see [Evidence File Layout](#).

The referral for a decision will be made in an evidence file (EF101) in the following order:

- [RM7 \(link is external\)](#)
- fully completed [PIP/DLA DM referral form \(link is external\)](#)
- copy of each piece of evidence grouped in poly pockets by evidence type for example: IUC transcripts in one pocket, witness statements in another and so on.

The investigator must also return the original copies of the DLA, PIP or AA file with all the original copies of the documents in the same order they were received. The DM is unable to make a decision unless the original copy of the file is returned.

On receipt of the referral, the DLA Case Review Team will prioritise the following cases in respect of DLA and PIP referrals

- police arrest cases
- cases with Ministerial Interest
- Counter Fraud and Compliance Directorate (CFCD) Grade 5 or 6 interest
- multiple benefit investigations where, apart from DLA letters, all overpayment letters have been issued to the claimant and the case is a potential prosecution

This activity must be recorded on Fraud Referral and Intervention Management Service (FRAIMS) by creating an activity and sending it to the Disability and Carers Services (DCS) Inbox, see [FRAIMS Guidance – Returning PDCS Papers](#)

If the Case Review Team (CRT) decides that the award should be reviewed they will calculate the overpayment, make the recoverability decision, and issue the [ORG7 Fraud WA \(link is external\)](#)/[ORG7W Fraud WA \(link is external\)](#)/[ORG7 CP/No CP WA \(link is external\)](#)/[ORG7W CP/No CP WA \(link is external\)](#) to the claimant. CRT will then return the case to the Investigator giving the following:

- details of the decision
- the amounts of Monetary Value Adjustment (MVA) and/or overpayments
- copies of the decision documents

If CRT decides there is insufficient evidence to review the benefit, they will return the case to the Investigator to notify them of the outcome. The investigator should close the DLA or PIP aspect of their case at this point.

CRT may decide that whilst there is insufficient evidence to review their benefit entitlement, doubt still remains as to whether the claimant is entitled. These cases may be referred for further action within operations, which could include a medical examination of the claimant. Whatever the outcome of such a review the fraud case will still be deemed to have been closed at the point CRT decided that entitlement should not be reviewed.

DLA, PIP or AA CRT are not FRAIMS users, so the system will not be updated whilst they are actioning the case. A Customer Information System (CIS) update should be received when a benefit change is recorded on the benefit system. Investigators can monitor the progress of the case on the legacy DLA and PIP systems.

It is essential at this stage that before any information is sent to the Disability Service Decision Maker, all sensitive information is removed or **redacted** and the [RM7 or sensitive information check](#) conducted.

You may need to contact CRT for a variety of reasons.

Send clerical evidence files for general Disability Living Allowance (DLA), Attendance Allowance (AA) and Personal Independence Payment (PIP), to:

Case Review Team

[Redacted]

To contact by e-mail send to [Redacted]

When a case is sent to this team they will issue an e-mail back to the investigator confirming receipt of the file.

Disputes team

For all cases where customer is in receipt of working age DLA or PIP and has disputed the decision send the information to:

DRT disputes

[Redacted]

To contact by e-mail send to [Redacted]

Exportability team

For cases which involve people in European Economic Area (EEA) countries, cases should be sent to:

Exportability team

[Redacted]

To contact by e-mail send [Redacted].

For all non EU cases refer to the CRT team as normal

DLA65+ and AA cases

All cases for people claiming DLA over the age of 65 or Attendance Allowance, these cases are now dealt with by Retirement Pensions Directorate, and they are responsible for the end to end process for these cases. Cases should be sent to:

[Redacted]

To contact by e-mail send to [Redacted]

To check the latest work position in the CRT

A specific email address has been set up with an automated response. This is used to identify the volume of cases currently outstanding for DLA and for PIP. The automated response will also provide you with the date of the oldest case so you know where the CRT team is up to by the date of case. See email address below:

DWP FES DCT Queries [Redacted]

Note: this inbox has been set up to provide the automated response only. You will **not get a reply** if you e-mail this address

To discuss complex cases on decisions you have received from the CRT

If you have a query based on a complex decision that has already been made, contact the Single Point of Contact (SPOC) by phone or by email:

for DLA, e-mail **[Redacted]**

for PIP, e-mail **[Redacted]**

Note: the SPOCs must only be used to discuss **complex** queries on decisions that have already been made and not be used to chase up the progress of a case.

For escalation only

Contact **[Redacted]**

03 Suspending benefits

Decision to suspend benefit

1. The decision to suspend benefit is made by the Benefit Processing Decision Maker (DM) on behalf of the Secretary of State. The DM may suspend benefit immediately where a question has arisen about the claimant's entitlement to benefit.

2. Benefit can be suspended in full, or in part, depending on whether the question of entitlement affects the whole award or some component part of it.

3. There is no right of appeal against the suspension of benefit but the decision may be subject to Judicial Review. This means that the DM must be able to fully justify any decision to suspend in accordance with legislation and case law.

4. Suspension may be appropriate where a doubt has arisen, during the currency of a claim, about whether:

- the claimant satisfies the conditions of entitlement to the benefit
- an award of benefit should be revised or superseded
- an overpayment of benefit is recoverable from a person and
- the address held by Jobcentre Plus or the Local Authority (LA) is where the claimant is currently residing.

5. Before suspending benefit, the DM takes the following points into consideration:

- any factors in the individual case which might make suspension unacceptable, such as ill health, children, age and financial commitments which could cause hardship. If hardship is demonstrated to the DM then the suspension may not be imposed and
 - the length of time the suspension will operate. If necessary, the DM will reconsider a decision to suspend benefit if it is taking longer than expected to sort out the question.
6. Particular care must be taken where issues may be less clear cut. This is because they are unlikely to be appropriate for early suspension under Secretary of State suspension.

Suspension in fraud cases

7. Throughout the course of an Investigation the Investigator must constantly review the information obtained to determine if and when a request to suspend benefit(s) is appropriate. If doubt arises about a claimant's current entitlement to benefit, consideration must be given to forwarding a request via E-mail or HOTT (Handover Telephony Tool) to the Benefit Processing Decision Maker (DM) to consider suspension of benefit. Evidence must be included when necessary, and a RM7/Sensitive Information check must take place on that evidence. Failure to take action to suspend benefit or benefits promptly and appropriately may lead to Official Error and non-recoverable overpayment of benefit.

8. An activity on the FRAIMs case must be recorded to state:

- [Request for Benefit suspension](#) (enter the Benefit Process Unit name), and a 5 working day BF, or

- Suspension of Benefit Claim considered but not appropriate for the following reason.....
(include reason or reasons why benefit suspension is not appropriate at this time).
9. Before submitting a request for Benefit Suspension the Fraud Investigator must conduct a [RM7/Sensitive Information check](#) to ensure only necessary and relevant information is included, in accordance with the Data protection Act (DPA) 2018 and other disclosure requirements including only using information that is necessary, relevant and proportionate. The Team Leader must verify this action and record the authorisation decision on FRAIMS.
 10. The RM7 check ensures that information relating to third parties which is irrelevant to the benefit decision and [Sensitive information](#) is removed or redacted prior to submission to the DM.
 11. If the DM requests additional information in order to reach a decision, the Fraud Investigator must conduct a RM7/ Sensitive Information check on any subsequent submissions and this must again be verified by the Team Leader.
 13. Once complete, the outcome of the investigator's [RM7/Sensitive Information check](#) and Team Leader's verification must be included on the FRAIMS case.
 14. Even if no sensitive information is present, the RM7/Sensitive Information and Team Leaders checks must take place and the outcome recorded on the FRAIMS case
 15. The DM will consider suspending benefit where there is some genuine, not anecdotal evidence that:
 - the claimant's circumstances have changed
 - facts not previously declared have come to light, or
 - full information on the matter is not available.
 16. In these cases, the Benefit Processing Decision Maker (DM) may suspend benefit pending full information being obtained by the claimant or investigator. For example, an allegation is received stating that a claimant is working for a named employer. The employer is contacted by telephone and confirms that the claimant is working but details of hours and wages are not available. The case must be referred to the DM to consider suspension of benefit while further enquiries are made.
 17. The DM must issue the correct notification of suspension letter to the claimant and record the suspension on the relevant benefit computer systems.
 18. There is no time limit on the length of a benefit suspension in fraud cases. All necessary information must be gathered as soon as possible once benefit has been suspended. This will enable the DM to resolve the question of benefit entitlement as quickly as possible.
 19. Suspension must not continue to any extent greater than is necessary to avoid overpayment. Additionally the DM will need to review the suspension on a monthly basis.
 20. If a claimant's benefit has been suspended at an investigator's request and the claimant challenges that decision, they will be referred to the DM for an explanation as to why their benefit was suspended.
 21. The DM may then wish to refer the claimant to the investigator so that an Interview Under Caution (IUC) can be arranged. Prior to IUC, the investigator must not discuss the case with the claimant, or any third party, at any time. This is because it will constitute a breach of the Police And Criminal Evidence Act (PACE), in England and Wales, and will hinder any IUC and fraud penalty action. This principle also applies in Scotland.
 22. Once the case is ready for a full Benefits decision, the case must be prepared for DMU as per ([FRAIMS guidance – Benefit Decision Required – FIS actions](#)).

Suspension of Housing Benefit – Single Fraud Investigations

23. If the investigator considers that suspension of Housing Benefit (HB) is appropriate, they must complete part 3.1 of the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form). The form must be emailed, with any evidence attachments, to the Local Authority (LA) Single Point of Contact (SPOC) to request consideration of Housing Benefit suspension. Prior to forwarding any supporting evidence to the Local Authority (LA) Single Point of Contact

(SPOC) with the LAIEF (Local Authority Information Exchange Form) request to suspend benefit with the initial request or subsequently, a RM7/ Sensitive information check and Team Leader check must take place prior to submission. Investigators must consider the requirements of the Data Protection Act (DPA) 2018 and other disclosure requirements such as only information that is necessary and relevant should be included.

24. After considering Housing Benefit suspension, the LA will complete part 3.2 of the LAIEF confirming the outcome of the decision. The LAIEF will be returned to the investigator by email for the case to be progressed to the decision making stage.

04 Benefit appeals in fraud cases

Benefit appeals

1. Criminal proceedings and an appeal against the benefit decision can progress simultaneously as the evidence required for a criminal conviction and a benefit decision can differ. A criminal conviction requires the prosecution to prove the case beyond reasonable doubt, whereas a benefit decision maker and the Tribunals Service (TS) decision is based on the balance of probabilities.

2. The criminal investigation and prosecution must not be delayed whilst an appeal is in progress. However, you must clearly note on the FRAIMS and [prosecution](#) case that an appeal has been lodged and keep the case updated with the status of the appeal. The appeals manager must be notified immediately.

3. If a benefit appeal is lodged in a case, which appears suitable for criminal proceedings, the Appeals Officer must be informed of the intention to start criminal proceedings and the Counter Fraud Compliance Directorate (CFCD) investigator to be advised of the following:

- has the original decision been reconsidered prior to submission for an appeal hearing?
- the date of the appeal hearing once this is known
- if there is a delay in arranging the appeal hearing, an estimate of how long it will take for the appeal to be resolved
- the result of the appeal
- details of any revised overpayment amount following the appeal or reconsideration
- if the appeal is later withdrawn.

4. When the FRAIMS user receives this notification and the case is still open, a new activity must be created to record it on FRAIMS, see [FRAIMS guidance - Notification of an Appeal received](#).

05 Informing the Prosecuting Authority of an appeal

England and Wales

Appeal lodged before file sent to Crown Prosecution Service

1. Once the Team Leader (TL) or Higher Investigations Leader (HIL) recommends proceedings in cases where an appeal has been lodged, the file should be submitted to Crown Prosecution Service (CPS) in the usual way but with clear details included on the file setting out the grounds of the claimants appeal.

2. This will allow CPS to make an informed decision on whether criminal proceedings should or should not be instituted pending the outcome of the appeal.

Appeal lodged after file sent to Crown Prosecution Service

3. It is also essential that CPS is informed if a benefit appeal is lodged after the case has already been submitted to them.

4. The CPS office undertaking the prosecution action must be informed by e-mail that an appeal has been lodged. The e-mail must set out the grounds of the claimants appeal and the date of the appeal hearing if it has already been fixed.

5. CPS will decide whether to take the following action on a case-by-case basis:

- commence proceedings by laying the information and progress the case in the normal way
- commence proceedings but ask the court to consider adjourning the case until the appeal has been heard
- delay commencing proceedings until the appeal has been heard

6. Where the decision is to delay commencing criminal proceedings, CPS will return the case to the Digital Case Management Unit (DCMU) with a covering note giving instructions on what action should be taken depending on the outcome of the appeal.

7. The Appeals Officer should be informed of CPS's decision of whether the case is suitable for prosecution and if criminal proceedings are to commence prior to the appeal being heard. Details of these contacts must be recorded on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS guidance - Further contact](#).

8. In all cases where an appeal has been lodged, it is essential that the investigator closely monitors the progress of the appeal with the Appeals Officer.

9. Any information received regarding the progress of the appeal such as hearing dates or results must be forwarded immediately to CPS. All new contacts with the Appeals Officer and CPS must be recorded on FRAIMS.

10. The investigator must also monitor the progress of the criminal proceedings and update the Appeals Officer to any changes, such as details of court hearing dates.

Procedure when criminal proceedings continue

11. CPS will generally commence criminal proceedings but will retain and exercise discretion not to issue criminal proceedings. In these cases, CPS will inform the court and the defence that criminal proceedings can continue on the basis that the overpayment is unchanged, unless the original overpayment decision is repealed, superseded or reduced on review by the Decision Maker (DM) or the Appeals Tribunal.

12. It will then be a matter for the court to decide whether the criminal proceedings should be adjourned until the appeal is concluded.

13. If the prosecuting lawyer concludes that the case is particularly complicated he or she may believe that it is in the interests of justice to determine the outcome of the appeal before continuing with criminal proceedings. If this is the case, the prosecuting lawyer can make representations to the court to this effect.

14. If the court agrees and the prosecution case is adjourned, the investigator must keep the prosecuting authority informed of the progress of the appeal. All details of any contact must be recorded on FRAIMS.

Action following the result of a benefit appeal or reconsideration

15. In cases where criminal proceedings have been suspended, and the result of the appeal or reconsideration affects the amount of the overpayment, the CPS will consider whether to:

- continue with proceedings or ask the court to withdraw the case
- return the file to the investigator, via the Digital Case Management Unit (DCMU), to consider a Caution, if appropriate, see [Fraud Guide – Cautions](#) or Administrative Penalty when the result of the appeal or reconsideration reduces the overpayment to below £5,000
- advise that the case is no longer suitable for prosecution and should be closed

Scotland

Informing the Procurator Fiscal of an appeal

16. In Scotland, if a benefit appeal has been lodged before a report has been sent to the Procurator Fiscal (PF), the Fraud Investigator (FI) will include details of the appeal in the report.

17. If a benefit appeal is received after the report has been sent to the Procurator Fiscal (PF), the Reporting officer must notify PF by sending a memo on the Specialist Reporting Agency (SRA) web site.

18. It is important that the PF is informed of the progress of the appeal and in particular the result. This information will be sent by the investigator to PF.

19. Generally the PF will not consider taking action until after the benefit appeal hearing has taken place. If the decision is 'No Prosecution (No Pro)' the report will be returned to FI.

Requests for surveillance authorisations from the Appeal Tribunal

20. If the claimant raises concerns about the conduct of officers in obtaining surveillance evidence during the appeal tribunal hearing, the Appeal Tribunal may request a copy of the application and authorisation for the surveillance ([RIP1 \(link is external\)](#))

21. If a request is received from the Decision Maker (DM) for a copy of the [RIP1 \(link is external\)](#), this should be printed and sent to the DM who will forward it to the tribunal and appellant. Any sensitive material contained on the [RIP1 \(link is external\)](#) must be blanked out before sending to the DM.

22. Any challenge to the surveillance authorisation must be made to the Investigatory Powers Tribunal (ITP) who has the relevant jurisdiction to investigate complaints about surveillance activity. For more information see [Surveillance – Complaints](#).

Action to take following withdrawal of appeal

23. If the investigator is informed by the Appeals Officer that a benefit appeal has been withdrawn, Crown Prosecution Service (CPS) or Procurator Fiscal (PF), must be informed immediately and the details recorded on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS guidance - Further contact](#).

24. If a claimant informs an investigator that they wish to withdraw their benefit appeal they must be advised that a withdrawal is only acceptable if it is in writing. The investigator must inform the claimant that they need to provide a written statement to withdraw the appeal, or notify the Department by letter.

06 Overpayments

Classification of overpayments

You must ensure any overpayments or underpayments are actioned, claimed appropriately and recorded accurately in Fraud Referral and Intervention Management System (FRAIMS) or Customer Management Tool (CMT).

Note: Failure to correctly record and claim under and over payments can mean:

- the customer may be owed money and potential of experiencing financial hardship
- customer may face incorrect punishment via Sanction/Prosecution, resulting in costly legal challenges
- avoidable recourse to special payments for the customer
- incorrect Management Information (MI), impacting Total Corrective Value (TCV) measures and performance reporting
- can compromise the Debt referral measure
- lack of confidence in statistical MI, performance reporting and resourcing

1. In Department for Work and Pensions (DWP) an overpayment of benefit can be classified in one of five categories:

- F - When the claimant:
 - admits the offence during an interview under caution
 - is found guilty of an offence, whether under statute or otherwise

- has agreed to pay an Administrative Penalty (Ad-Pen) and has not withdrawn that agreement
 - the evidence shows beyond reasonable doubt that the claimant has committed the offence, whether or not they admit to it.
 - this is when a claimant is paid the same benefit for the same period twice and occurs most commonly when benefit is paid clerically and also by direct payment for the same period.
 - M - Mistake by the claimant, whether innocent or deliberate.
 - C/L Overprovision - recoverable under common law
 - O/E - Official error.
 - Errors by third parties.
2. Only overpayments classified as F, M or C/L can be considered for recovery, therefore, it is essential in Counter Fraud Compliance Directorate investigations that action is taken promptly to prevent overpayments due to official error.
3. Overpayments that are wholly due to an official error will be written off.
4. Local Authorities (LAs) have different classification codes and the rates of subsidy applied to overpayments will vary according to the circumstances. The LA categories are:
- Fraud: Caused by wrongful statement or misrepresentation or wilful non-disclosure.
 - LA error: For example, incorrect assessment of benefit or failure to act on a notification of a change of circumstances.
 - Technical overpayments:
 - Rent rebates or Council Tax Benefits (CTB) (prior to 1 April 2013) credited in advance of entitlement accruing where a change of circumstances or a recoverable overpayment causes that entitlement to be removed or reduced.
 - An overpayment that starts in the benefit week following the week in which the change is disclosed to, or the overpayments identified by, the authority is a technical overpayment.
 - Any overpayment covering the period before the 'technical' part of the overpayment should be classified in the 'normal' way, for example, other/Departmental error.
 - Arising from the reduction in a claimant's Council Tax liability, for example, a delayed award of transitional relief, a reduction in a property's banding following an appeal or late award of discount.
 - These arise from mistakes, whether in the form of an act or omission made, by an officer of Jobcentre Plus.
 - Such overpayments can occur, for example, on initial processing of claims to Jobcentre Plus benefits, incorrect local office re-assessment of entitlement or incorrect notice of entitlement to the authority.
 - Other reasons: For example, claimant error, non-fraudulent error or non-disclosure of information by the claimant, receipt by claimant of arrears of income or advance payment of rent allowance.
 - Indicative Rent Level (IRL) overpayments: Benefit overpaid because an IRL exceeded the maximum rent payable.
 - Jobcentre Plus error - Excess Council Tax Benefit:

Recoverable overpayments

5. Where benefit is overpaid as a result of Local Authority (LA) error it is only recoverable when the claimant or person to whom benefit was paid could reasonably have been expected to know they were being overpaid at the time the overpayment occurred.

6. In Department for Work and Pensions (DWP), an overpayment can be classed as recoverable if it is the result of the claimant, or their representative, misrepresenting or failing to declare a material fact.

7. The receipt of a material fact does not necessarily mean that the causal link between misrepresentation or failure to declare and the unknown fact is broken. For example, the date of receipt of an EQ1, containing wage details, does not break the causal link.

8. This is because there is no evidence at this stage to show that the claimant being investigated is the same person as mentioned in the Statement of Earnings, even though the details shown on the Statement of Earnings may be the same as the claimant's.

9. It is only when the claimant admits the offence and agrees the Statement of Earnings or when a 'know and can recognise' statement is received from the employer, that the claimant can be linked to the offence. However, this will not prevent the Decision Maker (DM) from suspending benefit if entitlement is in doubt.

10. In all cases the Decision Making Unit (DMU) will calculate what overpayment has occurred as a result of their DM's decision. This will be a gross figure and will be notified to Counter Fraud Compliance Directorate (CFCD) investigations by e-referral via FRAIMS. The recoverable aspect of the overpayment also referred to as the net overpayment is decided by Debt Management and is notified to CFCD investigations via an ORG7 letter.

11. Before deciding how to progress a case the investigator must await the ORG7 as the recoverable amount shown on this letter will be the factor in determining if or what fraud penalty is appropriate. This is of particular relevance in undeclared capital cases because of the application of the Diminishing Capital Calculation.

Diminishing Capital Calculation

12. In cases where the offence relates to undeclared capital the DM needs to have regard to the Diminishing Capital rule.

13. For Housing Benefit cases, the overpayment should be recorded as per [MVA instructions \(link is external\)](#).

14. The Diminishing Capital Calculation is the 13-weekly depreciation of capital covered under the Social Security (Payments on Account, Overpayment and Recovery) Regulations 1988 Regulation. This is an estimate of how much capital would have been used if it had been declared at the correct time. The DM is required to apply this rule in all cases where capital has not been declared.

15. In cases where the application of this rule leads to a reduction in the recoverable amount there will be two differing overpayments, a gross and a net amount.

16. The difference between the gross and net overpayments can be substantial where the diminishing capital rule has been applied and in many cases alter the type of fraud penalty that will be applied.

Housing Benefit / Council Tax Benefit underlying entitlement

17. When the decision is received on the Housing Benefit (HB) / Council Tax Benefit (CTB) (prior to 1 April 2013) overpayment and the HB/CTB overpayment is to be included with the Department for Work and Pensions (DWP) overpayment for prosecution purposes, the investigator must check if underlying entitlement has been considered in arriving at the HB/CTB overpayment amount.

18. If it is not obvious from the information provided by the Local Authority (LA) that this action has been undertaken, the investigator must confirm with the LA that any underlying entitlement has been considered.

19. The investigator must confirm if any underlying entitlement has been considered, where the LA is unable to obtain the information or their efforts have proved to be unproductive and they are unable to calculate underlying entitlement, the reasons must be recorded on the FRAIMS case.

20. If the LA has not considered underlying entitlement, the investigator should request that the LA take action to assess any underlying entitlement, and create an activity on the FRAIMS case and set a Due Date for return of the information.

21. When the information is received, record the amount of the calculation on the FRAIMS case activity.

Debt Relief Orders and overpayments - England and Wales only

22. Debt Relief Orders (DROs) were introduced by the Tribunals, Courts and Enforcement Act 2007 as an alternative to bankruptcy in the United Kingdom (UK). Debtors with limited disposable income and few or no assets can apply for a DRO, which came into force in England and Wales on the 6 April 2009.

23. Where a DRO is approved, the debtor will not be required to make any repayments towards their debts during the time the order is in place. Therefore, where a benefit fraud overpayment / Administrative Penalty is the subject of a DRO, deductions from benefit entitlement must not be undertaken.

24. Once a DRO is discharged the debt will be written off, which is usually after 12 months. This may apply to debts against the department, however debts incurred as a result of benefit fraud will not be written off and recovery can commence on discharge of the DRO. This also applies to the recovery of any overpayments and Social Fund loans that are included in a Bankruptcy Order.

Date of disclosure

25. The date of disclosure is the date that Department for Work and Pensions (DWP)/Local Authorities (LA) is said to be aware of a material fact.

26. When looking at any evidence, the first consideration is whether that evidence is reliable. The evidence can be from any source but must clearly identify the claimant/partner.

27. If the above applies then the evidence should be immediately passed to the Decision Maker (DM). Although such evidence might not, in itself, enable the DM to make a decision on entitlement to benefit, it is, however, sufficient for them to consider suspension of benefit until further enquiries are made. Referrals to the DM must be recorded on FRAIMS, see [FRAIMS guidance - Benefit Decision Required - Fraud and Error Service Investigations](#).

28. An anonymous allegation only raises a suspicion and would require further investigation to show a link with the individual before the DWP/LA could be said to be in receipt of a material fact.

29. In working whilst in receipt of benefit cases, where the alleged work is for an employer, the date of disclosure will generally be the date that confirmation is received that the claimant is working. This could be the receipt of a Statement of Earnings from the employer, or confirmation by telephone.

30. It is essential that the case is referred to the DM immediately upon receipt of this evidence to decide if entitlement to benefit should be reviewed, or if entitlement to benefit should be suspended to allow further enquiries to be made.

31. In Living Together As a Married Couple (LTAMC) cases, the date of disclosure will be the date the claimant admits LTAMC, or if LTAMC is denied, the date the DM decides that the claimant should be treated as one of a couple.

32. On fraud drives, if a list of employees is received from a reliable source and holds sufficient information to clearly identify an individual, the date of receipt of the list is the date of disclosure.

33. In certain investigations, particularly those involving surveillance, the point at which DWP/LA is said to be aware of a material fact will vary. The individual circumstances

surrounding each case must be considered and liaison with the DM and overpayments officer considered.

34. Generalised Matching Service (GMS)/Housing Benefit Matching Service (HBMS) referrals do not in themselves contain details of a material fact. The disclosure date will be when the material fact has been established following investigation or the obtaining of intelligence data by the Operational Intelligence Unit (OIU).

35. It is important however that there are no unnecessary delays in investigating or requesting data, using Social Security Fraud Act (SSFA) 2001 for example, as this could result in part of the overpayment being classed as official error

Overpayment calculation and classification of referrals

36. Guidance on the process for referring cases for calculation and classification of an overpayment can be found in the [Overpayment Guide for FIS and DMUs \(link is external\)](#).

37. Where evidence has been identified indicating a potential overpayment of Jobcentre Plus benefits, except Bereavement Benefits, the evidence will be forwarded by the Decision Making Unit (DMU) using FRAIMS, see [FRAIMS guidance - Potential Overpayment Created - Fraud and Error Service Investigations](#).

38. Bereavement Benefit Decision Makers (DMs) are not FRAIMS users, therefore record details of the decision on the activity created on FRAIMS.

39. In cases where the claimant is entitled to Income Support (IS) on the grounds of incapacity for work, a DM decision is required on claimant's Incapacity Benefit (IB) claim as well as the IS claim, even if the claimant is in receipt of credits only on the IB claim.

40. For overpayments classified M, F or C/L, the claimant will be notified by the DL/ORG7.

41. The DL/ORG7 must include a 'without prejudice' clause, the absence of which may render any fraud penalty action inappropriate. A copy of the DL/ORG7 is sent to Counter Fraud Compliance Directorate (CFCD) and must be retained in the evidence file.

42. Non-recoverable Jobcentre Plus overpayments are generally not calculated but are written off under the easements package. A notional figure is provided and this should be recorded on FRAIMS, see [FRAIMS guidance - Recording the Overpayment Decision - Fraud and Error Service Investigations](#).

43. For Jobcentre Plus a small overpayment as defined in The Overpayment Recovery Guide and will be written off except where the claimant has admitted fraud or has a history of small overpayments and is likely to be considered for fraud penalty action

44. In these circumstances the overpayment will be calculated and recovery, if appropriate, pursued.

Instrument of payment overpayments

45. For an overpayment of benefit to be calculated in Instrument of Payment (IOP) cases, the following criteria have to be satisfied:

- the claimant and/or a third party must have admitted the offence
- Post Office admits liability. For example, where an IOP has obviously been altered but is still cashed by the Post Office
- both the original and replacement IOPs are available and the balance of probability indicates that the claimant and/or third party cashed both IOPs or
- a certificate of conviction has been obtained.

46. See Decision Makers Guide (DMG) section on [Overpayments, Offsets and Recoverability \(link is external\)](#).

47. In Jobcentre Plus, if none of the above apply then the loss should be written off as culprit not established and recorded on FRAIMS, see [FRAIMS guidance - Case outcome updates](#).

Recording the overpayment details

48. When details of the overpayment are received from the Decision Making Unit (DMU), the details must be recorded in the relevant benefit(s) notepad and on the FRAIMS case.

49. Pre-calculated Housing Benefit overpayments must only be recorded where the Interview under Caution has been conducted (or attempted in cases where the claimant failed to attend). Any pre-calculated overpayment of HB must be recorded on the over/underpayment tab on FRAIMS once an IUC has been conducted (or attempted in cases where customer failed to attend). If an additional HB decision is required, any resulting overpayments must also be recorded on the over/underpayment tab on FRAIMS.

All documentation in relation to the Local Authority HB/CTB/CTR Decision and Overpayments must be saved into DRS and referenced in FRAIMS by [Create Activity](#). HB O/P letters and associated Decisions provide validation of the Overpayment and confirmation the 'without prejudice' clause was included in the notification to the customer.

50. Enter the following details on all relevant benefit Notepad:

"A fraud decision has been received [date], amount of overpayment [figure], period from [date] to [date]".

51. If more than one benefit is involved ensure an entry is input into each of the relevant benefit Notepad.

52. For guidance on the actions to be taken on the FRAIMS case, see [FRAIMS guidance – Recording the Overpayment Decision - Fraud and Error Service Investigations](#).

Fraud penalty cases with no overpayment recorded

53. Where the investigation results in a fraud penalty but there is no overpayment to be recorded, for example where the offence is an:

- attempt only
- alleged partner prosecution or
- employer investigation

it is necessary to record the nil overpayment on the FRAIMS case.

54. Users should access the Case Under/Overpayment view and record in the following fields:

- 'Amount' – select '£00.00'
- 'Type of OP/UP' – select 'Recoverable'
- 'Type of Error' = select 'Fraud'
- 'Benefit' = input the benefit of loss, if appropriate, and
- Select the 'Completed' checkbox, there is no requirement to complete the 'Period Incorrectness' field.

55. This action will ensure that when the month end statistics are collated these cases can be reconciled successfully.

Recording losses in Criminal Investigation cases

56. Criminal Investigation overpayments must be recorded on the FRAIMS case, see [FRAIMS guidance - Recording the Overpayment Decision - Fraud and Error Service Investigations](#).

57. Where the Crown Court apportions an element of the overall loss to an individual based on the evidence presented by the prosecution, for example, in conspiracy cases, this amount must be recorded on the Case 'Under/Overpayment' view on the FRAIMS case as 'IOP Proven Loss'

Disclosure of Information to Third Parties

00 Introduction

1. This section provides instructions specifically for the Department for Work and Pensions (DWP) Counter Fraud Compliance Directorate (CFCD) people (Band C/D) who are likely to be involved in the disclosure of personal information, either via joint working arrangements or requests from third parties.

2. CFCD Criminal Intelligence Operational Intelligence Units (OIUs) and the National Disclosure Unit (NDU) have the responsibility for disclosure of information within the CFCD investigative community. Therefore, all decisions to disclose information, except in joint working cases, must be made by nominated officers within these units.

3. This is to make sure that all requests are made to a point of contact, reducing the risk of those requesting information making approaches to more than one Department for Work and Pensions (DWP) source.

4. Where the request is in relation to the investigation of cross boundary criminality or national/international serious and organised criminality, level two and three criminality as defined in the National Intelligence Model, disclosure must be handled by the appropriate CFCD Criminal Intelligence unit.

5. Legal Group, Data Protection and Freedom of Information guidance on [Disclosure](#) outlines the principles to be applied by DWP people when considering disclosure of personal information to third parties. All such disclosure requests must be considered in relation to these principles.

6. The DWP holds that:

All personal information held by the Department is regarded as confidential. Information will not normally or routinely be disclosed to third parties without the consent of the person concerned.

7. Therefore, although information may be disclosed without consent, it must be established that there is a legal basis for disclosure, such as a court order or legislation allowing or requiring disclosure.

01 Legislation and Departmental policy

Legislation

1. The Department for Work and Pensions (DWP) can only disclose personal information, including the transfer of information to another body, where it is permitted by law.

2. Legislation regulating the disclosure of personal information includes:

- Data Protection Act 2018
- Finance Act 1997
- Child Support, Pensions & Social Security Act 2000

- Social Security Administration Act 1992
- Social Security Administration (Fraud) Act 1997
- Tax Credits Act 2002
- Welfare Reforms & Pensions Act 1999
- Welfare Reform Act 2007
- Employment Act 2002
- Human Rights Act 1998
- Immigration and Asylum Act 1999.

This list is not exhaustive.

Data Protection Act 2018

3. The Data Protection Act (DPA) 2018 covers all personal information held by the Department, whether it is held electronically or in a paper based format, including photographs, videos, DVDs, and taped interviews.

4. DPA requires that any processing of personal information is fair and lawful. In seeking to disclose personal information collected by the DWP to another body for a specified purpose, there is a need to make sure that the respective bodies can lawfully receive and process the data and that it will be processed securely.

5. Disclosure within DPA arises if personal information is released to a third party:

- electronically
- verbally
- in writing
- by computer **screen prints** that include personal information.

6. DPA 2018 paragraph 2(1) of Schedule 2 and DPA 2018 paragraph 5(3) of Schedule 2, provide the most common exemptions from the non-disclosure provisions of the Act and are explained below.

7. Data Protection Act 2018 paragraph 2(1) of Schedule 2 provides that personal information is exempt from the non-disclosure provisions when it is required providing that the purpose and prejudice tests are met.

The Purpose Test

8. For:

- the prevention or detection of crime or
- the apprehension or prosecution of offenders, or
- the assessment or collection of any tax or duty or of any imposition of a similar nature.

The Prejudice Test

9. The application of the non-disclosure provisions would be likely to prejudice any of the matters shown under The Purpose Test above.

10. If both the purpose and prejudice tests are satisfied then personal information can be disclosed legally with regard to DPA. However, this does not place a statutory requirement on the Department to disclose. Therefore, before disclosure is made, consideration must also be given to whether the request is fully in line with Departmental Policy.

11. For further information see Legal Group, Data Protection and Freedom of Information guidance on [Disclosure](#).

12. Schedule 2 paragraph 5(3) of DPA 2018 deals with disclosure in connection with legal proceedings, DWP policy is that disclosure under section 35(2) can only be considered if a court order is obtained.

Departmental policy

13. The Department's guiding principles are of fairness, even-handedness and compliance with the law. Officers must make sure they:

- act lawfully
- comply with both the letter and spirit of relevant enactments
- meet common law duties of confidentiality, and
- honour the Department's policy and principles on disclosure.

14. Any disclosure of information without claimant consent must satisfy at least one of the following criteria before it can be considered for disclosure in order to meet the guiding principles of the Data Protection Act (DPA) 2018:

- be required by statute
- be permitted by statute
- comply with a court order
- be required to prevent duplication of payments from public funds
- there is a compelling public interest in making the disclosure.

15. Officers involved in the disclosure of information must ensure that they are fully aware of Department for Work and Pensions (DWP) policy and legal gateways before undertaking disclosure duties.

16. For further information see Legal Group, Data Protection and Freedom of Information guidance on [Disclosure](#).

Disclosure officers' responsibilities

17. In Jobcentres, requests for crime related disclosure are processed within the Counter Fraud Compliance Directorate (CFCD) Criminal Intelligence National Disclosure Unit (NDU), except in joint investigations.

18. In addition, all requests from the police must be made to the NDU to provide the police with a single point of contact. Nominated disclosure officers are responsible for the processing of such requests. All requests must be made in writing. It is not acceptable to disclose information in response to a verbal request, either by telephone or face to face.

19. On receipt of a request for disclosure, an officer of at least Band C must decide whether the request is appropriate to be considered within the NDU. Only crime related requests for disclosure, or those received from the police, are processed within this unit. If not it must be forwarded to the relevant business unit. The requestor must be advised where their request has been sent.

20. If the request is appropriate to the NDU, it must be recorded on the **[Redacted]**.

The disclosure officer must establish whether or not the request complies with the DPA 2018, the Department's guidance on [Disclosure](#) and whether it was made in the appropriate manner. If it does not, the request must be refused and the person who made the request advised of the reason why.

21. If it is established that information may be disclosed, the grade of the officer appropriate to consider disclosure must be considered. For some requests for information the grade of the decision maker is prescribed as a Band C, such as disclosure to the police. However, the more sensitive the information requested, the higher the grade required to make the judgement on disclosure. If there is any doubt on whether information can be disclosed following a particular request, contact [Information, Devolution and Governance](#).

22. The Band C disclosure officer, or Band D if appropriate, must consider whether the information requested is relevant to the offence being investigated. It is therefore important that the information requestor provides sufficient background detail to justify why the information request is valid. This is particularly important when information is requested under Data Protection Act 2018 paragraph 2(1) of Schedule 2 for the purpose of prevention or detection of crime or the apprehension or prosecution of offenders. It has to be shown that there is a substantial chance, rather than a mere risk, that failing to disclose the requested information would be likely to prejudice the purpose for which it is being requested.

23. As a minimum, any request from a non-Home Office organisation must follow the requirements of the Memorandum of Understanding (MOU) with the Association of Chief Police Officers (ACPO) and ACPO Scotland:

- [Disclosure of Personal Information from DWP to Police Forces – England & Wales](#)
- [Disclosure of Personal Information from DWP to Police Forces in Scotland](#)

24. Where there is insufficient evidence to justify the request, personal information must not be disclosed under any circumstances.

25. The officer making the decision to, or not to, disclose must fully document their decision and reasons for it, including the legislation under which the information is disclosed. This is essential in case of any challenge or dispute over information that has been disclosed and is for the protection of the disclosure officer.

26. Where the request for information indicates that an offence may have been committed against the benefit system, the disclosure officer must consider making a referral on the Fraud Referral Form (FRF), except where the request is received from the police and they are investigating a Department for Work and Pensions (DWP) offence. Where there is an indication of abuse of a DWP contract, the disclosure officer must consider making a referral to Risk Assurance Division.

27. Responsibility for ensuring that disclosure is legal and within Departmental policy lies with both DWP and individual members of staff. If disclosure is made in accordance with the DPA 2018 and other relevant guidance, such as the police MOU, then liability arising for any breach of confidence would normally lie with the Department. However, if disclosure is made contrary to the relevant guidance or an individual does not have the authority to disclose the information liability may fall on both the Department and the individual.

28. Unauthorised disclosure of DWP information is a criminal offence under section 123 of the Social Security Administration Act 1992 and section 50 of the Child Support Act 1991.

Retention periods

29. A copy of the reply must be printed and filed securely with the information request and disclosure officer's decision in date order of receipt and kept for 14 months after which time they must be destroyed.

02 Disclosure by Operational Intelligence Units or National Disclosure Unit

Operational Intelligence Unit or National Disclosure Unit

When disclosing information, you must give consideration to the third data protection principle, which states that when processing personal data, which includes disclosure, the processing shall be adequate, relevant and not excessive in relation to the purpose for which the information is sought. Only that information which is absolutely necessary to deal with the specific issue is disclosed.

The disclosure officer may disclose straightforward personal information, such as address, date of birth, where claimant cashes benefit.

Benefit information

Where a request is received for benefit information, the disclosure officer should follow the same procedures as any other request in the first instance.

The disclosure officer is best placed to ensure that the request is made in accordance with this guidance and any Memorandum of Understanding (MOU) or Partnership Agreement in

force. This also ensures that third parties have a single point of contact for disclosure requests and do not contact benefit offices directly.

Any request for benefit information should be scrutinised carefully to ensure that the information is necessary to progress the investigation.

In England and Wales, where detailed information is being requested to support action under the Proceeds of Crime Act (PoCA) 2002, the request must be rejected and the requestor advised that they must follow the provisions within PoCA 2002 and obtain a court order for such information. For further information, see Legal Group, Data Protection and Freedom of Information guidance on [Disclosure \(link is external\)](#).

In England and Wales if the request is under Data Protection Act 2018 paragraph 2(1) of Schedule 2, the National Disclosure Unit (NDU) will do a limited check and decide whether the information can be released without the need of a production order.

In Scotland, powers in relation to confiscation and civil recovery fall to the Lord Advocate for confiscation and Scottish Ministers for civil recovery. For further information see [Financial disclosure in Scotland](#).

If the request form is completed in line with this guidance and the disclosure officer decides that the criteria for disclosure are satisfied, the request should be sent to the benefit owner to consider if and what to disclose. The disclosure officer should advise the originator that the request has been forwarded to the relevant benefit section.

‘Signing on’ times

The disclosure officer must **not** disclose details of signing times or other attendance at Jobcentre Plus offices. Any request for such information must be referred to the relevant office manager or nominated contact, to decide whether disclosure is appropriate, as they have responsibility to ensure the health and safety of Department for Work and Pensions (DWP) employees and other members of the public are adequately considered, for additional information.

The disclosure officer should advise the originator that the request has been forwarded and advise them to liaise directly with the office manager or nominated contact.

Court orders, production orders and Fiscal letters

Information can be provided to the police if they have obtained a court order, production order or fiscal letter for the information to be provided. disclosure officers are not responsible for supplying information under such orders.

If a request is received within the Operational Intelligence Unit (OIU) or National Intelligence Unit (NDU) it should be forwarded immediately to the relevant section, as there will be a short timescale for compliance. The originator should be informed that the order has been forwarded and a contact name provided, where possible, to reduce the number of follow up enquiries made of the OIU or NDU.

The OIU or NDU is not responsible for the co-ordination and follow up of requests.

Financial disclosures in Scotland

The Scottish Crown Office National Casework Division and Civil Recovery Unit were set up in Scotland as a result of Proceeds of Crime Act (PoCA) 2002. The Scottish Government and court rulings dictate procedure and policy for PoCA 2002 activity in Scotland.

The Department for Work and Pensions (DWP) is permitted under section 439 of PoCA 2002 to disclose information to the Lord Advocate in respect of confiscation (Part 3 of PoCA) and Scottish Ministers responsible for the Civil Recovery Unit (Part 5 of PoCA 2002).

The Counter Fraud Compliance Directorate Financial Investigations Unit (FIU) / Criminal Investigations have a specific Memorandum Of Understanding (MOU) with the Scottish Crown Office, and Scottish Crime and Drug Enforcement Agency, specifically the Scottish Money Laundering Unit, and all police Financial Investigation Units in Scotland, to provide pre-order information where confiscation action is taking place as part of a criminal investigation.

This includes a money laundering enquiry prior to Crown Office full designation. This provides basic information of benefits paid to the suspect in the previous 12 years. If Department for Work and Pensions (DWP) benefit offences become apparent while dealing with these disclosure requests, the Scotland FIU investigator will complete a Fraud Referral Form (FRF).

If there is a need to determine the full extent of this income for confiscation and civil recovery a Production Order is required which will be dealt with centrally by Information and Devolution Policy Division – Scotland on behalf of Jobcentre Plus. The requesting officer will use the normal Scottish routes for serving orders on the DWP.

03 Disclosure to the police

Disclosure of information to the police

1. Disclosure of personal information to the police must be handled in accordance with the requirements of the Memorandum of Understanding (MOU) with the Association of Chief Police Officers (ACPO) and ACPO Scotland:

- [Disclosure of Personal Information from DWP to Police Forces – England & Wales](#)
 - [Disclosure of Personal Information from DWP to Police Forces in Scotland](#).
2. The Transport Police, Special Branch and Police of the Armed Forces are not covered by the ACPO or ACPO Scotland agreements. However, any requests from these organisations must be treated in the same way as requests from the police and provide the same levels of justification for disclosure to be considered.
3. As a minimum requirement of the police, a written request must:
- state whether the offence being investigated is imprisonable or non-imprisonable
 - give the reasons why the information they have requested is required
 - state why the request is compatible with Data Protection Act (DPA) 2018 paragraph 2(1) of Schedule 2
 - make sure that all other more appropriate lines of enquiry have been pursued to obtain the information or locate the subject
 - have the completed request signed by an officer of the appropriate rank or above, see Authorisation.
4. The above is the minimum information that is required before disclosure can be considered. If this minimum is not reached or the disclosure officer has insufficient information, they must request further information as necessary from the police to justify their decision.
5. The request for further information can be made by phone, but the reply must be made in writing to provide a full audit trail in case of challenges. Any discussions with the police must be recorded and kept with the request.
6. The disclosure officer must make sure that the request:
- includes the offence under investigation and whether that offence is imprisonable, or not
 - includes the reason why the information is required, explaining as fully as possible the reasons why the non-disclosure exemptions of the DPA 2018 apply, such as that the information is necessary for the prevention or detection of a crime or the apprehension or

prosecution of offenders **and** why failure to disclose would substantially prejudice the purpose for which it was requested

- is made after other more appropriate lines of enquiry have been pursued
 - has been signed by an officer of the appropriate rank or above.
7. If the request does not satisfy the requirements of the MOU it must be rejected, advising the police as to the reasons why.
8. All requests must be processed on the appropriate system.

Imprisonable and Non-imprisonable offences

9. Police requests for basic information in connection with imprisonable/non-imprisonable offences can be considered at Band C level. This is only applicable of requests actioned by National Disclosure (NDU) disclosure officers.

10. Requests for more detailed information must be considered in consultation with the Band D manager. All such discussions should be documented.

11. All requests received outside of the NDU in connection with non-imprisonable offences, **must** be considered at Band D level in line with Legal Group, Data Protection and Freedom of Information guidance on [Non-Imprisonable Offences \(link is external\)](#).

Information required

12. For information to be disclosed in line with the principles of the Data Protection Act (DPA) 2018, any information requested must be relevant and necessary to progress their case. It is essential that the police provide full details of exactly what information they require and why such information is necessary. In particular, the connection of the subject to the offence is required, for example, suspect, victim, witness, etcetera, as this information will determine how disclosure is progressed.

Non-disclosure exemption apply

13. The Memorandum Of Understanding (MOU) requires that the police explain as fully as possible why the non-disclosure exemptions of the DPA 2018 apply. For the exemption under section 29(3) to be satisfied, the police must include why failure to disclose the information requested would substantially prejudice their investigation

Authorisation

14. An officer of at least the rank of Inspector must sign requests from the police. This can include officers that are acting Inspector. Requests managed by civilian teams within the police force can be accepted if authorised by a civilian officer of at least Supervisor grade.

15. An officer of at least the rank of Staff Sergeant – Warrant Officer, must sign requests for information from the Military Police. Where the request is not signed by a Sergeant/Staff Sergeant – Warrant Officer/equivalent or above, or the rank of officer is unclear, the request should be rejected.

Witnesses and victims

16. A disclosure officer at Band C level within the National Disclosure Unit (NDU) can consider any requests for information regarding a victim of, or witness to a crime. The non-disclosure exemptions of the DPA 1998 do not differentiate between suspects, victims or witnesses to crime.

17. The disclosure officer must carefully consider whether the investigation would be substantially prejudiced if the information was withheld, in consultation with their Band D manager where necessary. All such discussions should be documented.

18. All requests received outside of the NDU in connection with witnesses and victims offences **must** be considered at Band D level in line with Legal Group, Data Protection and Freedom of Information guidance on [Witnesses / Victims](#).

Missing/vulnerable persons

19. The National Disclosure Unit (NDU) disclosure officer will ensure that any request for information relating to missing or people at risk meets the criteria in Legal Group, Data Protection and Freedom of Information guidance on [Vulnerable Persons](#).

20. Where the disclosure officer is satisfied that the criteria has been met the request is forwarded to the subject's local benefit office for consideration of disclosure. It is the responsibility of the local office Business Manager to decide what information, if any can be disclosed on a case by case basis.

Requests for information on lists of claimants

21. Information on lists of claimants will not normally be provided. Where a request is made for a list of unnamed individuals, this must be referred to the Counter Fraud Compliance Directorate Business Partner Team who will provide advice on how to handle the request.

22. This does not include lists where a number of individuals are identified. These should be dealt with on a case by case basis as with any other request.

Disclosure where the Department has an interest

23. Some cases may be suitable for police investigation, in accordance with the requirements of the Memorandum of Understanding (MOU) with the [Association of Chief Police Officers \(link is external\)](#) (ACPO) and [ACPO Scotland \(link is external\)](#) . These may include:

- Instrument of Payment (IOP) fraud
- itinerant and multiple identity fraud
- static fraud.

24. In these cases it is appropriate for the investigator to supply the information to the police, without reference to the disclosure officer in the Operational Intelligence Unit (OIU)/National Disclosure Unit (NDU).

25. In joint investigations there will be a written statement agreed by both parties at the outset of the investigation identifying the roles and responsibilities for each organisation. In these cases investigators can make disclosure of information.

26. Disclosure must be limited to that which is necessary and relevant. Any action to disclose information in these circumstances must be recorded on FRAIMS, see [FRAIMS Guidance – Disclosure of Information during an investigation](#).

Registered sex offenders

27. The Memorandum Of Understanding – Location of Sexual Offenders and The Memorandum of understanding – Location of Sexual Offenders (Scotland) provides guidelines for the disclosure of information to enable the tracing of registered sexual offenders who fail to meet the registration requirements under the Sexual Offences Act 2003.

28. Any requests made under this Memorandum Of Understanding (MOU) are not for consideration by Operational Intelligence Unit (OIU)/National Disclosure Unit (NDU) disclosure officers. If such a request is received, see Legal Group, Data Protection and Freedom of Information guidance on [Registered Sex Offenders](#).

04 Disclosure to Other Government Departments or Organisations

Local Authorities where there is no departmental interest

Section 122C of the Social Security Administration Act (SSAA) 1992, as amended by Section 48 of the Welfare Reform Act (WRA) 2007, provides a legal gateway for the disclosure of personal information by the Department for Work and Pensions (DWP) to Local Authorities (LAs) administering Housing Benefit (HB) and Council Tax Benefit (CTB) (prior to 1 April 2013) for the purposes of:

- calculating entitlement to benefit
- checking the accuracy of HB/CTB
- calculating and recovering overpayments, or
- preventing, detecting, investigating or prosecuting of offences relating to Housing Benefit/Council Tax Benefit, Income Support, Jobseekers Allowance, Incapacity Benefit, State Pensions Credit and Employment and Support Allowance.

Only requests for information required for the prevention, detection, investigation or prosecution of benefit fraud are appropriate for consideration by Operational Intelligence Unit (OIU)/National Disclosure Unit (NDU) disclosure officers. Benefit office staff must deal with other requests.

Local Authorities (LAs) can obtain information directly from the Customer Information System (CIS). However, where the information required is not available, a request must be made in writing. The request must specify what information is required and that the information is required for the purposes of section 122C of the Social Security Administration Act (SSAA) 1992. Disclosure of such information is not appropriate for Counter Fraud Compliance Directorate (CFCD) investigators and must be referred to the appropriate OIU to consider disclosure.

The disclosure of information under section 122C of the SSAA 1992 is restricted to authorities administering Housing Benefit (HB) or Council Tax Benefit (CTB) (prior to 1 April 2013) and does not extend to other Local Authority departments such as Trading Standards, Social Services, etcetera.

Sections 130 and 131 of the Welfare Reform Act 2012 allow the sharing of information between Local Authority departments who do not necessarily administer HB or CTB and DWP for the following provisions:

- Section 130 relates to the funding of a residential care service
- Section 131 relates to Welfare Services such as identifying someone who might be supported by the Troubled Families Programme.

Requests under Sections 130 and 131 of the Welfare Reform Act 2012 must be made to the appropriate Benefit Centre rather than CFCD. If CFCD receive requests from LAs under these provisions the LA must be advised to contact the Benefit Centre.

Requests for the disclosure of information from Local Authority departments for any reason not covered by any of the above provisions must be dealt with under the Data Protection Act 2018.

Her Majesty's Revenue and Customs

Section 110 of the Finance Act 1997 permits the disclosure of personal information held for the purpose of Department for Work and Pensions (DWP) functions to Her Majesty's Revenue and Customs (HMRC) for:

- use in the prevention, detection, investigation or prosecution of criminal and civil offences relating to revenue matters
- checking the accuracy of information for purposes connected with matters under the management of revenue, and
- use in connection with legal proceedings connected with the above.

There is no statutory requirement to disclose information requested under section 110. HMRC must justify why the information they require is necessary. It is not sufficient to accept the Act as justification for disclosure.

HMRC also have statutory powers to obtain DWP information under section 121F of the Social Security Administration Act (SSAA) 1992.

Additionally, section 59, schedule 5, paragraph 6 of the Tax Credits Act 2002 provides HMRC with statutory powers to obtain DWP information provided that it is for the purposes of carrying out their duties. The powers are restricted to the requirement to provide information for purposes connected with:

- National Insurance Contributions,
- Statutory Sick Pay,
- Statutory Maternity Pay or
- Tax Credits.

Therefore, it is important that HMRC specify the offence they are investigating when a request is made.

It is not necessary for HMRC to specify under which legislation they are requesting / require the information. However, the disclosure officer must consider and record under which legislation disclosure is to be made.

UK Visas and Immigration

UK Visas and Immigration is part of the Home Office and deals with immigration matters. The Immigration (Supply of Information to the Secretary of State for Immigration Purposes) Order amended section 20 of the Immigration and Asylum Act 1999. This enables Department for Work and Pensions (DWP) and other agencies to disclose information to UK Visas and Immigration for immigration purposes.

There are no legal gateways for disclosing information to other agencies within the Home Office. DWP can obtain information under section 122B of Social Security Administration Act (SSAA) 1992 from the Home Office, including UK Visas and Immigration, for the purpose of a criminal investigation

Criminal Cases Review Commission

The Criminal Cases Review Commission (CCRC) is the independent public body set up to investigate possible miscarriages of justice in England, Wales and Northern Ireland.

Set up by the Criminal Appeal Act (CAA) 1995, the Act provides the CCRC with a duty to investigate allegations of wrongful conviction, sentencing or both.

Section 17 of the CAA 1995 gives the CCRC power to obtain access to, where justified, any documents or material in the possession or control of any public body. Documents / material may be held in any of the following formats:

- magnetic
- electronic
- digital media
- audiotapes
- videotapes
- photographs
- objects
- paperwork

This list is not exhaustive.

The CAA 1995 overrides any obligation of secrecy or confidentiality. Therefore, the department is obliged to comply with any request for information despite any issues of public interest immunity, the Data Protection Act (DPA) 2018 or the Official Secrets Act.

Disclosure can be considered at Band C level. However, if there is any doubt as to whether disclosure is applicable, see [Contacts for Data Protection/Disclosure/Freedom of Information Advice and Guidance \(link is external\)](#)

Scottish Criminal Cases Review Commission

The Scottish Criminal Cases Review Commission (SCCRC) is an independent public body, which was established by Section 194A of the Criminal Procedure (Scotland) Act (CP(S)A) 1995, as amended by Section 25 of the Crime and Punishment (Scotland) Act 1997.

The role of the SCCRC is to review and investigate cases where it is alleged that a miscarriage of justice may have occurred in relation to conviction, sentence or both.

The SCCRC can only consider cases where the conviction and sentence were imposed by a Scottish Court; High Court, Sheriff Court, District Court or Justice of the Peace (JP) Court. These can be both solemn and summary cases.

Section 194L(1) of the CP(S)A 1995 gives the SCCRC power to obtain documents, from any public body, by applying to the High Court for an order. Documents / material requested must be appropriate to the case in question and can be in any of the formats detailed above.

Disclosure can be considered at Band C level. However, if there is any doubt as to whether disclosure is applicable, see [Contacts for Data Protection/Disclosure/Freedom of Information Advice and Guidance](#)

Identity and Passport Service

Disclosure of information to Identity and Passport Services (IPS), previously known as the United Kingdom Passport Services (UKPS) must be dealt with in accordance with the Data Protection Act (DPA) 2018

Charity Commission

Under [Section 54 \(link is external\)](#) and [Section 56 \(link is external\)](#) of the Charities Act 2011, there is an express legal gateway that allows the exchange of information between the Department for Work and Pensions (DWP) and the Charity Commission for the purpose of enabling or assisting the relevant public authority to discharge any of its functions.

Under [Section 15\(1\) \(link is external\)](#), a function of the Commission is to identify and investigate apparent misconduct or mismanagement in the administration of charities and to take remedial or protective action.

It is important that the Charity Commission specify why the information is required when approaching the DWP.

Disclosure can be considered at Band C level. However, if there is any doubt as to whether disclosure is applicable, see [Contacts for Data Protection/Disclosure/Freedom of Information Advice and Guidance](#)

Other third parties

The previous sections provide guidance on the disclosure of information to third parties where statutory gateways exist or where Memorandum Of Understandings provide specific guidance on disclosure.

Where no legal gateway exists, third parties will generally use the non-disclosure exemptions of Data Protection Act 2018 paragraph 2(1) of Schedule 2, to request information from Department for Work and Pensions (DWP) in relation to the investigation of criminal activity.

Where such a request is made, the requestor should, as a minimum, satisfy the criteria laid down in [Disclosure of information to the Police](#), before disclosure can be considered

Joint investigations

Where an offence is being jointly investigated between Counter Fraud Compliance Directorate (CFCD) and another agency, it is appropriate for the CFCD investigator to disclose information to that agency, but only to the extent that the information requested is necessary and relevant to the investigation

05 Disclosure of information in the public interest

Voluntary disclosure of Jobcentre Plus information

In accordance with Data Protection Act 2018 paragraph 2(1) of Schedule 2, which incorporates the common law principle of disclosure in the public interest, evidence of a criminal offence obtained when carrying out official Department for Work and Pensions (DWP) duties can be disclosed to the relevant authority.

For further information, see Legal Group, Data Protection and Freedom of Information Instructions on [Disclosure](#).

There may be circumstances when Jobcentre Plus obtains information in the course of its business that indicates that an offence may have been committed against another department or organisation. This information may have been received as part of an allegation, during an investigation in to possible fraudulent activity, or by other Jobcentre Plus staff in the course of their business.

Before disclosing information relevant to another department or organisation, the investigator must ensure that they are familiar with the [Joint Working Protocol](#). This gives details of the roles and responsibilities of the various Departments and organisations, which should ensure that information is legally disclosed to the correct Department and may encourage joint working. Information should be referred under the cover of the [FIS DISC1 \(link is external\)](#). The decision on whether to disclose information in these circumstances should be made by an officer not below Band C (Executive Officer (EO)) within the Counter Fraud Compliance Directorate (CFCD) team. Such cases must not be referred to the disclosure officer within the Operational Intelligence Unit (OIU) or National Disclosure Unit (NDU)

Referral appropriate to Other Government Department

Where an incident is classified as No Fraud Action (NFA), the Operational Intelligence Unit (OIU) Incident Manager must consider whether there is any information in the referral that indicates that an offence may have been committed against another Department or organisation, See [FRAIMS Guidance – Incident Handover](#).

If disclosure is considered appropriate and the officer is satisfied all the information is relevant, a print of the Fraud Referral Form (FRF) and, if appropriate, the original piece of post received should be referred under the cover of the [FIS DISC1 \(link is external\)](#) to the relevant department.

A copy of the piece of post should be kept securely for three months for validation and test checking purposes. This enables a Team Leader or Higher Investigations Leader to check and confirm that disclosure to another department was appropriate.

Where disclosure is not appropriate and there is a piece of post relating to the allegation, keep the original post securely for three months for validation and test checking purposes.

If a suspected case of Tax Credit fraud is received at the incident management stage, the documents should be referred to HM Revenue and Customs (HMRC), under the cover of a FIS DISC1 letter, to the address below:

[Redacted]

Or **[Redacted]** if sent by email.

If the allegation would only affect Housing Benefit or Council tax Benefit (or Reduction) (HB or CTB (or CTR)) the matter must be referred to the appropriate Local Authority (LA) on the FPA2, complete with a copy of the FRF – unless the LA has moved to Single Fraud Investigation Service (SFIS), in which case follow the appropriate SFIS instructions. For further information on the referral process, see [Joint Working arrangements with LAs](#).

Information obtained during the course of an investigation

During the course of an investigation, or the building of an [Intelligence Evaluation Scoring/5x5x5](#), information may come to light that indicates that offences have been committed against other departments or organisations.

The investigator or referral manager must first consider whether in light of the information received a joint investigation is appropriate.

If so, [Joint Working Protocol](#) should be followed and disclosure would be appropriate for the investigator or Criminal Intelligence Operational Intelligence Unit (OIU) nominated officer to consider.

The investigator must consider whether any disclosure may prejudice the Department for Work and Pensions (DWP) investigation. If the information will not prejudice the investigation disclosure can be considered, see [FRAIMS Guidance – Disclosure of information during an investigation](#)

If disclosure of the information is considered prejudicial to the DWP investigation consideration can be given to disclosing appropriate information immediately prior to the conclusion of the investigation, see [FRAIMS Guidance – Case handover](#)

Persons at risk

If during an investigation there are indications that a child or other vulnerable person has been abused or is at risk of injury, ill treatment or neglect, follow the Information and Devolution Policy Division guidance on reporting [Vulnerable Persons](#).

Voluntary disclosure by non-disclosure officers

The officer, of at least Band C (Executive Officer (EO)), decides whether or not disclosure is appropriate in the same way that requests for disclosure are considered. For disclosure to be considered, both the principles of the Data Protection Act (DPA) and Departmental policy must be satisfied.

Where there is no legal gateway for the disclosure of information to another organisation, for example, the police or UK Visas and Immigration, there must be a compelling public interest in making the disclosure. Where the offence indicated is one that carries a potential custodial sentence, the public interest test will be satisfied and disclosure can be made.

The officer must consider whether the alleged offence is serious enough to warrant proactive disclosure and so should be handled in conjunction with an officer of at least Band D (Higher Executive Officer (HEO)). If disclosure is considered appropriate, only information that is relevant to the offence should be disclosed. This must be done in writing.

The officer making the disclosure must fully document their decision and reasons for it. This is essential in case of any challenge or dispute over information that has been disclosed and is for the protection of the officer and the department.

DLA PIP AA and CA Investigations

00 Introduction

Introduction

The purpose of this section of the manual is to provide investigators with details of the factors that need to be taken into account whilst investigating potential Disability Living Allowance (DLA), Personal Independence Payment (PIP), Attendance Allowance (AA) and Carer's Allowance (CA) fraud.

Background

DLA, PIP and AA are tax free, non contributory and non-means tested benefits claimed on a self-assessment basis.

DLA is payable to claimants who were under 65 years old when making their first claim. PIP is replacing DLA for working age claims over 16 years old.

AA is only payable to claimants who are 65 years or older when they make their first claim. These benefits are available to severely disabled people regardless of whether they are working or not.

The Decision Maker (DM) bases their decision on the claimant's own assessment of how their illness or disability affects them. They will also consider any further evidence they feel is necessary to decide the claim, such as medical evidence or information from a carer. The DM will then decide whether the benefit qualifying conditions are satisfied and the period for which benefit is to be awarded.

CA is a taxable non contributory benefit paid to claimants who are aged 16 or over who spend at least 35 hours a week caring for a person who gets either AA or DLA at the middle or highest rate for personal care. It is not payable to people in full time education or earning more than a stipulated amount after certain deductions.

For PIP, the care component has been replaced by the daily living component.

For details of the amount the Carer can earn see [CA Earnings Limit](#).

01 Awards of Disability Living Allowance, Personal Independence Payment, Attendance Allowance and Carer's Allowance

Disability Living Allowance and Personal Independence Payment

Disability Living Allowance and Personal Independence Payments are mutually exclusive.

Both awards have two components, being Mobility and Care/Daily Living Allowance. The Disability Living Allowance (DLA) Mobility component can be paid at a higher or lower rate. The Care component can be paid at the highest, middle or lowest rate. Personal Independence Payment Mobility and Care (DLA) or Daily Living (PIP) components can both

be paid at enhanced or standard rate. An award can be any rate of one component or a combination of any rate of both components.

Claimants receiving an award of the higher rate Mobility component of DLA or the Enhanced rate Mobility component for PIP, which have twelve months or more to run, can qualify for a Motability car in exchange for the higher rate Mobility component.

Mobility component

The Mobility Component is appropriate to claimants who experience outdoor mobility restrictions. Higher Rate awards are safeguarded (part of Pensions, Disability and Carers Service (PDCS) policy) by Decision Makers who obtain medical evidence that must corroborate restriction severity prior to making such an award.

- The Higher Rate mobility component is awarded to claimants who are unable or virtually unable to walk.
- The Lower Rate mobility component is appropriate for claimants who can walk but cannot take advantage of their ability to walk outdoors on unfamiliar routes without guidance or supervision from another person most of the time.

Care component

The Care component is appropriate for claimants who are so severely disabled either mentally or physically that they require:

- Day attention – frequent attention in connection with their bodily functions throughout the day.
- Night Attention – prolonged or repeated attention in connection with their bodily functions at night.
- Day Supervision – continual supervision throughout the day
- Night Watching Over – someone to watch over them on a prolonged or frequent basis during the night.

Any of these four criteria enable Middle Rate Care awards and a combination of one of the day **and** one of the night criteria enable Highest Rate Care awards.

Lowest-rate care component

The Lowest Rate Care Component is appropriate for claimants who are so severely disabled mentally or physically that they either need attention with bodily functions for a significant portion of the day or they are unable to plan or prepare a cooked main meal.

As each case is specific to the claimant in question investigators must take account of information contained within the PDCS Fraud File. For example, copies of the latest claim form and the PDCS fraud referral summary will provide important background information.

Attendance Allowance

Attendance Allowance (AA) is awarded for care needs and may be paid at a lower or higher rate. These are the same as the care components, middle and highest rates of Disability Living Allowance (DLA) or the standard and enhanced rates of the Daily Living component of Personal Independence Payment (PIP). There is no mobility element for claims to AA.

Carer's Allowance

Carer's Allowance (CA) is paid at a flat rate to persons who satisfy the qualifying conditions.

CA cannot be paid at the same time as certain other benefits. In these cases payment of CA is reduced or inhibited although an underlying title to CA remains. For information about overlapping benefits, see the [CA instructions on Overlapping and Other Benefits](#)

02 Referral Process

Making a referral to Pensions Disability Carers Service

The process followed by the Fraud Referral and Intervention Management System (FRAIMS) when it receives an incident relating to Disability Living Allowance (DLA), Personal Independence Payment (PIP), Attendance Allowance (AA) and Carer's Allowance (CA) is outlined in [Incidents for PDCS action](#).

Where a case is received in a local team FRAIMS Inbox, with an offence type of other than **Disability in Doubt** and the claimant is in receipt of DLA, PIP or AA, the case must be taken forward in the same way as all other offence type.

Referral and Enhanced Routing Team action

On initial receipt of the case, the Case Preparation (CP) team will consider the following:

- is the case suitable for investigation, and
 - does the allegation conflict with the disabilities declared on the Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Attendance Allowance (AA) claim.
- If the case is not suitable for Investigations criminal Investigation and only DLA or AA is involved, Case Preparation will consider passing the details for third party action by DWP operations.

Note: an out of sequence review will only be acted upon if there is information to counter the existing medical statements. If this is not held then consideration must be given to closure of the cases.

Refer PIP cases for an out of sequence review using form [FCA040 \(link is external\)](#)

Refer DLA cases to the DLA SPOC

If another benefit is to be investigated for the same claimant, an investigator may be asked to take forward the investigation.

Should a local CFCD team obtain evidence in the course of an investigation that gives rise to doubts about the claimants entitlement to Disability Benefits then they must obtain the DLA or AA claim file from RS Web. For Personal Independence Payment (PIP), claim documentation is held within DRS.

If a local CFCD team obtain evidence that gives rise to doubts about entitlement to Carers Allowance (CA), they must request claim documentation. This must be requested directly from RS Web through local arrangements. More recent Carers Allowance claims are held on the Document Repository System (DRS), staff should have access following MOSAIC. In exceptional circumstances, the CAU FES DM Team Admin can obtain documents but only after the aforementioned locations are checked. Calls should be made on **[Redacted]** upon receipt complete the [Carers Allowance case-paper request form \(link is external\)](#) and the Carers Allowance Unit (CAU) RS Web team will update the system of CFCD interest accordingly.

03 Investigations

Disability Living Allowance, Personal Independence Payment and Attendance Allowance

The investigation of suspected Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Attendance Allowance (AA) fraud requires a different approach to that used when investigating other benefits, such as:

- Income Support (IS)
- Jobseekers Allowance (JSA)
- Employment and Support Allowance (ESA)
- Housing Benefit (HB)

- Council Tax Reduction (CTR).
This is because DLA, PIP or AA awards are not based on financial need, unemployment or inability to work due to incapacity.

The entitlement conditions are complex and are based on a claimant’s mobility restrictions and, or personal care needs arising from their disabilities or health related problems.

Case no longer suitable for Criminal Investigation

When the information obtained is insufficient for a criminal investigation for Working Age DLA cases, forward the details of the case to the DCS SPOC for referral to the Disability and Carer’s Service (DCS) for an out of sequence review.

Note: An unplanned intervention will only be acted upon if there is information to counter the existing medical statements. If this is not held then consideration must be given to closure of the cases, without the need of a referral.

For Personal Independence Payment (PIP), print off the Fraud Referral Form (FRF) and all of the evidence that has been obtained. Ensure that the FRF and all the evidence have had all sensitive material redacted and then, complete the covering note [FCA040 \(link is external\)](#) and forward all to the appropriate Mail Opening Unit for action:

- PIP1 [Redacted]

PIP2 [Redacted]

& PIP3 [Redacted] are dealt with at [Redacted].

- PIP4 [Redacted]

& PIP5 [Redacted]

are dealt with by [Redacted] (**40 * Personal data (absolute exemption in relation only to information that is the personal data of the applicant).**)

[Redacted]	[Redacted]
------------	------------

[Redacted]	[Redacted]
------------	------------

[Redacted]	[Redacted]
------------	------------

[Redacted]	[Redacted]
------------	------------

[Redacted]	[Redacted]
------------	------------

[Redacted]	[Redacted]
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For further information, see: [PIP Out of sequence review Consideration](#).

When the information obtained is insufficient for any review to take place, record the details in a FRAIMS activity and take closure action on FRAIMS.

Carer’s Allowance

When a case involving Carer's Allowance (CA) is accepted as suitable for a criminal investigation (clear evidence of aiding and abetting), the investigator must request the CA claim file from RS Web.

The method of investigations in cases involving CA will depend on which of the entitlement criteria is in doubt.

If the allegation is that the claimant has earnings in excess of the limit then the investigation can be conducted in much the same way as a working case involving other benefits, see [Working Investigations](#).

If the allegation is that the claimant is no longer caring for the disabled person evidence will have to be obtained to demonstrate that care is not being provided for 35 hours per week.

The definition of care can allow for this to be provided remotely, for example; by phoning the disabled person to remind them to take medication.

It is not enough, therefore, to rely on the fact that the claimant is not seen to visit the disabled person.

If an investigation is being conducted into a claim for Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Attendance Allowance (AA) and Carer's Allowance (CA) is in payment, a file must generally be raised in the name of the CA payee.

If entitlement to DLA, PIP or AA is removed then the CA will no longer be payable. However, in order for a recoverable overpayment to be raised, evidence will be required to show that the carer was aware that there was no entitlement to DLA, PIP or AA or that the care was not being provided.

Authorised surveillance

If the claimant receives the higher rate of the mobility component of Disability Living Allowance (DLA), it is essential that evidence of their mobility is obtained. This will help the Decision Maker (DM) to review the award.

For Personal Independence Payment (PIP) there is a psychological distress component to consider.

All directed surveillance must be carried out by the designated surveillance teams within Counter Fraud and Compliance (CFCD) either Investigations or Serious and Organised Crime (SOC).

Surveillance should be used to obtain evidence of a person's physical capability and in some cases their mental capability too. When referring for surveillance consideration should be given to the extent of the customer's stated needs and how often it's claimed these difficulties affect them. This will impact on the directed surveillance activity.

Surveillance Evidence can establish:

[Redacted]

This list is not exhaustive and may include any other evidence the investigator considers relevant.

The Fraud Investigator will agree with the team leader that surveillance is appropriate and will complete and send a [SurvReq \(link is external\)](#) referral form to the surveillance tasking manager.

To do this:

Only suitable cases should be referred to the Surveillance teams. Therefore it is imperative that a case conference between Team Leader (TL) and Fraud Investigator (FI) takes place to confirm the case is suitable for surveillance, identify any gaps in evidence, and look at any less intrusive evidential routes and identify exactly what evidence is sought from surveillance.

- FI Drafts the SURVREQ
- this activity is recorded on FRAIMS.

It's important that the TL checks that the appropriate consideration has been given to CHIS and that this has been correctly recorded.

Once the TL and FI agree the case is suitable for surveillance, a referral is made as per the referral process.

Any photographic identification which is held currently must be attached to FRAIMS as per the surveillance referral process

Example

[Redacted]

A comprehensive guide for Personal Independence Payment (PIP), inclusive of some criteria, is available at [PIP GOV UK \(link is external\)](#).

Surveillance teams will, where appropriate conduct directed surveillance under the Regulation of Investigatory Powers Act 2000 and compile an evidence pack known as the Surveillance Product. This will be supplied to the referring FI /TL.

The Surveillance Officer will be available where possible to support the presentation of surveillance evidence in any subsequent [Interview under Caution](#)

Information from employers

Claimants in receipt of Disability Living Allowance (DLA) or Personal Independence Payment (PIP) may continue to receive this benefit if they are in employment or if they commence employment. However, under Social Security Regulations, claimants are obliged to report a change of circumstances to the Department if the change could affect their entitlement to benefit.

For DLA and PIP purposes, a claimant would be obliged to report the fact that they have commenced employment if the activities and duties undertaken during the course of employment are incompatible with their mobility and care needs as declared on their claim for DLA or PIP. In such cases, qualitative evidence would have to be obtained, setting out the nature of the work and the physical and mental requirements of the employment.

[Redacted]

This list is not exhaustive

The witness statement covering the duties performed should be provided by someone with personal experience of how the claimant behaved in the execution of their duties at work

Do not obtain wages details if DLA or PIP is the only benefit being investigated. The EQ1 must only be issued where another benefit is also in payment and fraud is suspected against the other benefit.

Information from third parties

Where a claimant in receipt of Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Attendance Allowance (AA) is not working but is taking part in leisure or social activities, consideration must be given to obtaining witness statements covering similar points to those listed at Authorised Surveillance

04 Disability Living Allowance, Personal Independence Payment and Carers Allowance Decision Making

Consideration of benefit suspension

Suspension of benefit payment must only be considered where claimant notification would not adversely affect any ongoing investigation. For example, prior to the Interview Under Caution (IUC). Details of any request for benefit suspension must be recorded on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS guidance – Benefit Decision Required – Fraud and Error Service \(FES\) action](#).

Once the Investigator is satisfied that the investigation would not be put at risk by suspension they should contact the relevant section:

for Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Attendance Allowance (AA), contact the Case Review Team **[Redacted]**

for Carers Allowance (CA), e-mail the details to: **[Redacted]**

The subject line should be:

URGENT SUSPENSION, NiNO, CA, Type of Case.

These requests will be considered within 24 hours of receipt.

Once a suspension request is made, send all appropriate documentation for DMA action as soon as possible i.e. following the interview. Where any case is not going forward, you must ensure all suspensions are lifted by contacting the CAU DM Team.

When the investigator contacts the Case Review Team, they may be asked some security questions to confirm that the call is legitimate and to provide details of the case they want suspending and why. It may be necessary to confirm the details by email or FAX.

The investigator should create a FRAIMS activity to note that a suspension request has been made directly to the Decision Maker (DM).

When a suspension is required, you must notify the relevant section as soon as possible to ensure any overpayment of DLA, PIP or AA and/or Carers Allowance (CA) is kept to a minimum. If an investigator unduly withholds information which predates suspension the DM may to classify part of the overpayment as an official error and unrecoverable.

Suspension not appropriate

Suspension action would not be appropriate where a Higher Rate Mobility or Enhanced Mobility component is linked to a Motability finance agreement although a care component could be suspended if this is included.

Submitting CA cases for a decision

Referring a Case for Decision to Carers Allowance Unit

Note: Each case requiring a decision must be sent as a separate email

For further information see the [Carer's Allowance Service Request Form \(SRF\)](#) ([link is external](#)). A separate [REF2](#) ([link is external](#)) is not required.

Ensure all required evidence to enable the decision to be made, is attached

within the email, for example:

- EQ1(s)
 - IUC Transcripts
 - MF47
 - Copies of claim documents (only required in false from outset allegations)
- Conduct [RM7](#) ([link is external](#))/Sensitive information check on evidence that will be sent to the

Centralised DMU, remove or **redact** any sensitive information. The RM7 check should be recorded on FRAIMS as appropriate activities. The relevant part of the CA SRF must be updated to show this has been performed, there is no need to send an electronic copy of the form with the submission.

(If there is any sensitive material you will need to photocopy the original, redact the sensitive information and then scan this, as you **must not alter any original**)

To redact is to edit, or prepare for publishing. Frequently, a redacted document, such as a memo or e-mail message, has simply had personal (or possibly actionable) information deleted or blacked out; as a consequence, redacted is often used to describe documents from which sensitive information has been deleted.

Scan each evidential document required by the DM separately.

- make sure that documents are correctly titled according to CFCD Naming Conventions
- if there is a document that is more than 60 pages long then please split and scan in separate parts and label accordingly, for example wage records part 1, wage records part 2
- load documents into the scanner and scan the document in the correct orientation (portrait, landscape or if a mixed document then the scan format must follow the original exactly). “Cut and Paste” or “Drag” across the Scanned documents from the “ScanDir Folder” into your local folder.

Open a draft e mail and address via Global to the respective alphabetical centralised email inbox as follows:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Complete Subject line taking into consideration the appropriate security classification for the content of the email. See [Email policy 02 April 2014 \(link is external\)](#) .The vast majority of the emails will be classified as “Official” and as such will require no annotation in the email subject line.

Example

National insurance Number, CA, Type of Case, i.e. Compliance.

AB#####A, CA, WIR, Compliance.

Cases will be returned to LSO and copied into the LSO Line Manager if above format is not strictly adhered to.

Attach all documents that the CAU will require to make decision to the email, either as separate documents or compressed in a WinZip** Folder.

Either attach separately or WinZip -Do not use combination of both methods. If a case requires more than one email (although using WinZip will reduce the need for this).

The subject line must reflect this and the emails should be sent in quick succession.

Example

AB#####A, CA, Not Caring, Compliance – part1 of 2

AB#####A, CA, Not Caring, Compliance –part2 of 2

Send the e mail - you will receive an auto response from the mailbox confirming receipt.

Completion of the Carers Allowance Service Request form

When completing the CA SRF the following points must be noted:

- alleged offence - Include details of any evidence or information that has been gathered during the investigation and which puts the claim in doubt.
- benefit claim history – Include the benefit claim information and the history of the circumstances surrounding the award and benefits in payment
- if evidence cannot be provided include a statement to this effect, for example: person mentioned in IUC has left the employment therefore the Investigator is unable to obtain a witness statement re duties
- key points from IUC – examples would be where the claimant has admitted an offence, where dishonesty has been established or if any mitigating or aggravating features have been identified such as reasons for committing the offence
- evidence for CA referrals – include all the employers in chronological order. It is particularly important that the dates the claimant received their first and last payments of wages are shown. If for any reason form 788X, 788BX (for self employed) or 828 break in care has not been obtained or the wage details are incomplete, the reasons must be stated in box provided
- rebuttal evidence – describe the outcome of follow up enquiries subsequent to the IUC this would include rebuttal statements and reasons why lines of enquiry were not or could not be followed through

Appeal cases

If an appeal is received against a decision in a Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Carers Allowance (CA) case Pension, Disability and Carers Service will notify the Investigator that the appeal has been received. The Investigator should monitor the progress of the appeal on the DLA, PIP or CA benefit system.

The Investigator should discuss the case with the Appeal Presenting Officer and agree whether the Investigator should attend the hearing or not.

Notify the DLA Case Review Team (CRT) immediately if prosecution action is proceeding in advance of the appeal and the claimant enters a guilty plea or is found guilty by the Court.’).

Notification should be sent by e-mail to: **[Redacted]**

Original claim documents required for trial

All appropriate papers will be retained by the Disability Living Allowance (DLA) team to facilitate the process of any appeal that may be lodged against the decision. For Carers Allowance (CA) the case papers are sent to Departmental Records Office (DRO) through RS Web.

If the investigator requires further original documents in respect of a DLA case for a trial or to clear any other query, contact should be made with DLA Customer Review Team (CRT) to request the DLA Claim file. PIP papers are obtained from DRS.

Original case papers will not be routinely provided for CA cases as the Investigator should photocopy all relevant documents required for a prosecution prior to submitting the case for a decision. If a copy claim form is required an email should be sent to **[Redacted]** to request a copy of the claim form

Papers required by Disability Living Allowance or Attendance Allowance and Carers Allowance teams

From time to time Disability Allowance (DLA), Personal Independence Payment (PIP), Attendance Allowance (AA) and Carers Allowance (CA) teams may require papers held by Counter Fraud Compliance Directorate (CFCD) to deal with matters that have arisen on the case. Contact will be made directly with the Primary Case Owner to request the papers

Returning claim files to Pensions Disability and Carers Service

Disability Living Allowance (DLA) or Attendance Allowance (AA) and Carers Allowance (CA) claim files obtained by Counter Fraud Compliance Directorate (CFCD) must be returned as follows:

- as soon as a decision is made to close the fraud investigation with documents returned directly to RS Web
- when a case is transferred (downgraded) to Compliance, – a copy of the latest claim form should be obtained and retained in the evidence file for use by the Compliance Officer, the original documents sent back to RS Web
- when a case is referred to a DLA/AA or CA DM for a decision on entitlement – all original documents should be returned. Copies of documents required for any potential prosecution must be obtained and retained in the evidence file

When Carers Allowance documents are returned, complete a second [Carers Allowance Case Papers Pro-forma \(link is external\)](#) and remove the notepad entry.

Closing Cases

In cases where a fraud penalty has been applied for the first time in relation to a benefit offence and the whole of the offence occurred on or after 1 April 2010 or it is the second conviction for an offence within five years, a Loss of Benefit fraud penalty must be considered, see [Loss of Benefit Provisions](#).

05 Pension Disability Carers Service case summary

Case summary notes

To ensure files are cleared, all the relevant information needs to be presented and supplied by Counter Fraud Compliance Directorate (CFCD) in a clear and concise manner. The more focussed a referral is the quicker the file can be cleared.

The following are examples of good practices:

Layout of files

All the relevant information must be filed on the right hand side; each piece of evidence must be separated and clearly annotated or numbered and cross referenced within the summary.

Disability Living Allowance (DLA) files should be returned in the Orange cover.

Sensitive information

A copy of the RM7, Sensitive Information Sheet, should be included in all files. This must be placed on the top right hand side of the file.

Completion of case summary

A case summary must be completed for all cases. This provides the starting point in the decision making process and provides essential information for the overpayment decision when cases are referred to Debt Management.

The case summary and sequence of events is critical for the decision making process, see [example of a case summary](#).

The summary must be completed on the [DLA/PIP summary template \(link is external\)](#). The clearer the case summary and sequence of events the quicker the file will be processed. A good case summary includes:

- a very brief summary of the allegation, for example, claimant is alleged to be working as a bus driver although he can walk over half a mile. The Decision Maker (DM) must not see the allegation as this may prejudice their decision
- include the benefit claim information; history of the claim circumstances for the award and benefits in payment, PDCS have indicated that this may not always be obvious from the documents the investigator holds. The DM will confirm whether this information is correct
- it should contain a detailed chronological sequence of events including if available the date there is evidence to put to the claimant. Bullet point evidence and describe relevance. Also note enquiries or evidence that does not support the allegation
- details including length of times and results of the surveillance rather than the pages of notes should be included. This should also include information with regards to what was seen, and if applicable what has not been seen, such as, absence of walking aids, limps during periods of surveillance
- if evidence cannot be provided please include a statement to this effect, an example may include a work colleague of the claimant named during the Interview Under Caution (IUC) who has since left the employment, who the claimant stated used to undertake certain duties on their behalf
- follow up enquiries; describe the outcome of follow up enquiries subsequent to the IUC for example, obtain rebuttal statements, include reasons why lines of enquiry were not or could not be followed through

Example of a DLA, PIP and AA Case Summary

Claimants Name: [Redacted]

NI No: [Redacted]

Claimant Claim Address: [Redacted]

FRAIMS No: [Redacted]

[Redacted]

DOB: [Redacted]

Allegation

(A short paragraph summarising the allegation)

A referral was received that cast doubt on the entitlement of Disability Living Allowance award to the above named.

The referral alleges that the claimant was capable of undertaking activities that appeared to be incompatible with their current award.

The fraud referral alleged that [Redacted]

Benefit Claim Information

(History of claim including current circumstances and benefits in payment following benefit system checks)

[Redacted]

Evidence

(Bullet point evidence and describe relevance. Also note enquiries or evidence that does not support the allegation)

[Redacted]

[Redacted]

Interview Under Caution

(List key points highlighting discrepancies and reference relevant pages)

[Redacted]

Follow up Criminal Procedure and Investigations Act (CPIA)

(Describe the outcome of follow up enquiries subsequent to the IUC such as obtaining of rebuttal statements, including reasons why lines of enquiry were not or could not be followed through).

[Redacted]

(or Not appropriate on this Investigation)

Please review the claimants entitlement to DLA or PIP based on the evidence held in the evidence file. If I can be any further assistance please do not hesitate to contact me to discuss.

Investigator name:

Investigator location:

Investigator email:

Investigator telephone number:

Date Sent:

Employer Investigations

00 Introduction

Introduction

1. Compliance Investigation Teams (CITs) investigate cases where one person assists another usually for a fraudulent purpose. These cases have commonly been referred to as **collusion**.

2. The term **collusion** does not exist in law and the use of that terminology is therefore inappropriate until there is strong evidence of one of the following offences:

- encouraging or assisting crime
- conspiracy
- aiding, abetting, counselling and procuring
- art and part
- false declaration
- false accounting
- obstructing an inspector or refusing to furnish information or

- forming a fraudulent scheme.
3. This is because the use of the term collusion could prejudice a prosecution.
 4. Potentially, every **working and claiming** case could have an employer compliance investigation aspect. An Investigator may also become suspicious of employers during the course of an investigation, for example, they may be evasive and/or non co-operative.
 5. It is important to realise where reference is made to an **employer** this could also include people such as managers, team leaders or supervisors.
 6. If an allegation or query indicates that this may be the case, the investigator must complete a Fraud Referral Form (FRF) selecting: **An Employer you think is assisting benefit fraud** and complete the offence details, see [FRF Desk Aide](#).
 7. Otherwise the investigator should consult the Team Leader (TL) / Higher Investigation Leader (HIL) for advice on the action to take.

England and Wales

8. The Department for Work and Pensions (DWP) policy is to pursue fraud penalty/prosecution action on both the employer and worker / benefit claimant. Where the employer and claimant are both suitable for prosecution the cases should be submitted together with a view to both cases being heard in court at the same time.

Scotland

9. DWP policy is to pursue fraud penalty/prosecution action against the employer only. The worker / benefit claimant may be used as a witness to give evidence for the Crown against the employer and will therefore not be considered for prosecution in employer compliance investigation cases.

01 Offences

1. The following are examples of employer compliance investigation offences with details of the points to prove.

Encouraging or assisting crime

2. Encouraging or assisting crime under sections 44 – 46 of the Serious Crime Act 2007:

- the offence can occur in three circumstances
- offence occurs if a person does an act capable of encouraging or assisting the commission of an offence and he:
 - intends to encourage or assist the commission of the crime or
 - he believes the offence will be committed and that his act will encourage or assist its commission or
 - he believes that one or more offences will be committed, but has no belief as to which, and that his act will encourage or assist the commission of one or more of them
- common to all of the offences evidence must be obtained which establishes a person has encouraged to spur on by advice, encouragement or persuasion to commit the offence or
- assisted in the commission of the offence by doing something that, as a matter of fact, makes it easier for a person to commit the principal offence
- evidence of encouraging or assisting a crime may come from the principal offender in the form of admissions made during interview under caution and or a standalone witness statement or from a third party in the form of a witness statement and not subject to criminal proceedings.

Conspiracy

3. Conspiracy to defraud under the Criminal Law Act 1977, the Criminal Justice Act 1987 and Common Law (England and Wales). In Scotland, conspiracy comes under Common Law:

- there was an agreement, arrangement, scheme, system or plan involving at least two people
- there must be a motive
- conspirators can be convicted whether or not the actual offence that was conspired has been committed
- it must be possible to commit the conspired offences

- in order to prosecute an employer, they must have taken some part in the conspired offence
- admissions may be necessary from the conspirators
- corroboration of the evidence is required
- normally more than one competent witness is required
- totally independent witnesses, those that had no part in the plan, would help greatly and
- obtain written statements whenever possible.

Aiding, abetting, counselling and procuring - England & Wales only

4. By helping someone to commit fraud the employer may be committing offences under the Accessories and Abettors Act 1861 or the Magistrates Courts Act 1980:

- under legislation; aiding, abetting, counselling and procuring is one offence and not separate offences. The individual elements of the offence are as follows:
 - aiding is to actively assist in the offence
 - abetting is to be present and encourage the committing of the offence
 - counselling is to give advice to the offender whilst the offence is being committed
 - procuring is to offer material help, to arrange or enable the offence to be committed
- the employer does not have to be physically present while the offence is being committed
- the person doing the aiding and abetting must have a basic understanding of the rules for the receipt of benefit. For example, that claimants are supposed to notify any work done; and
- corroborative evidence must be obtained where possible.

Art and Part - Scotland only

5. Art and Part occurs when one person knowingly does something to further fraud by another person:

- Art and Part refers to a person's indirect involvement in the committing of an offence;
- the employer must give positive assistance, encouragement or advice to the individual committing the offence. This assistance or encouragement must be deliberate;
- Scottish law makes no distinction between committing or agreeing to a crime. A charge can be brought against any person who:
 - commits an offence
 - incites someone else to commit an offence or
 - helps with an offence
- the employer does not have to be physically present while the offence is being committed, and
- corroborative evidence must be obtained where possible.

False declaration

6. An offence under Section 112 of the Social Security Administration Act 1992:

- given in the form of a false statement provided by, for example, an employer, supervisor or team leader, which they know to be false in a material particular
- parties can knowingly allow false information to be given
- parties must know at the time that the information was given, that it was false, and
- at the time that the false information was given, it was known to be made for the purposes of the act.

False accounting

7. An offence under Section 17 of the Theft Act 1968 (England and Wales):

- an offence under Common Law (Scotland)
- there is a false set of records
- the person falsifying the records gained for themselves or another
- the person has destroyed, defaced, concealed or falsified a record or document made or required for any accounting purposes, and
- when they supplied the information they knew that it was misleading, false or deceptive.

Obstructing an Inspector or refusing to furnish information

8. An offence under Section 111 of the SSAA 1992:

- the term inspector in this context relates to an officer authorised under section 109A/110A of the SSAA 1992

- the employer has intentionally delayed or obstructed an Authorised Officer in the exercise of their powers, usually when attempting to obtain information under Section 109B or 109C of the SSAA 1992, and
- the employer has refused or neglected to answer any question, to furnish any information or to produce any document when required to do so, usually when an Authorised Officer is attempting to obtain information under Section 109B or 109C of the SSAA 1992. **Note:** For time bar purposes the date of reference is expiry of the 7 days given within the AO16 letter.

Forming a fraudulent scheme - Scotland

9. The accused actively assisted, advised, encouraged or enabled the offence to be committed:

- the accused does not have to be physically present during the offence
- the accused must have known they were committing an offence
- the accused must have a basic understanding of the rules for receiving benefit, for example, claimants are supposed to declare any work done, and
- corroboration of the offence.

02 Investigations

Approach to employer investigations

1. [Redacted]

2. Aiding and abetting/Art and Part (in Scotland), require evidence that the employer or worker has encouraged the other to commit an offence. In general, with aiding and abetting, a successful prosecution against the worker is necessary.

3.[Redacted]

4. The most common type of prosecution is in respect of false information provided in a statement. It is important to note that a false statement can be oral as well as written.

5. For further information, see [Obtaining information from the employer](#).

6. Section 112 of the Social Security Administration Act (SSAA) 1992 states:

‘If a person for the purpose of obtaining any benefit or other payment under the legislation to which Section 109A above applies whether for himself or some other person, or for any other purpose connected with that legislation:

a) makes a statement or representation which he knows to be false; or

b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular

he shall be guilty of an offence.’

7. [Redacted] This would also be helpful when pursuing an overpayment calculation.

8. For further information, see [General investigative procedure](#).

9. In employer compliance investigation cases, there may also be non-compliance in respect of National Insurance contributions, Income Tax or Value Added Tax (VAT).

10. If it is suspected that this is the case joint operations should be considered. If this is not possible ensure that the information is passed to the Her Majesty’s Revenue & Customs (HMRC), under Section 110 of the Finance Act 1997.

11. For further information see [Joint Working with Other Agencies](#).

General investigative procedure

12. In employer compliance investigation cases the investigator must begin by trying to establish:

- [Redacted]

13. [Redacted]

Surveillance

14. In an employer compliance investigation, once the necessary authorisation has been granted, at least two Investigators, if possible, for corroboration purposes as well as health and safety, must conduct surveillance and record it.

15. The investigators must carry out a sufficient amount of surveillance, over a suitable period to enable them to establish a pattern of work for the claimant.

16. [Redacted]

17. For further information on conducting surveillance, see [Surveillance Activity](#).

Creating Group records on FRAIMS

18. The investigator must consider whether a group record needs to be created on FRAIMS. A group record must be created when more than one employee has been identified as working for the suspected employer.

19. Once a Group record is created all the case/suspect records must be linked to the record.

20. For more information, see [FRAIMS guidance – Groups](#)

Recording information and evidence

21. The following list shows examples of recording information and evidence:

- witness statement – [PF11 \(link is external\)](#) (Scotland) / [CI8 \(link is external\)](#)/[CI8S \(link is external\)](#)/[CI8W \(link is external\)](#) / clerical MG11's [MG11pt1 \(link is external\)](#)/[MG11pt2 \(link is external\)](#)/Typed MG11's [MG11pt1 \(link is external\)](#)/[MG11pt2 \(link is external\)](#)
- [CI9 \(link is external\)](#)/[CI9S \(link is external\)](#)/MG49 (LAs)
- Statement of earnings - EQ1
- official Notebook
- observation/surveillance logs
- statement of workers - [EC3/EC3W \(link is external\)](#)
- Record of Statement to obtain Statement of Workers
- Record of Interview with Witness
- Record of Interview Under Caution
- photographs/videos and
- audio tapes / Compact Discs (CDs).

22. For further information, see [Obtaining Evidence Statements](#) and [Witness Statements](#).

Obtaining information from the employer

23. Once an investigator has sufficient evidence of the claimant's activities obtained through authorised surveillance an approach to the employer must be made to obtain a statement of workers.

24. For further information and details of letters, see [Obtaining information by written notice](#).

25. The [EC2/EC2W \(link is external\)](#) must be sent to the employer along with the letter informing the employer of the visit. The details of the letter and form issued must be recorded on FRAIMS, see [FRAIMS guidance - Scheduling a visit](#).

26. The EC2 must be amended to include the appropriate office letter heading.

27. In Scotland, the Authorised Officer must name the benefit recipient(s) suspected of working for the employer and complete the [EC1/EC1W \(link is external\)](#) during the visit.

28. At the time of the visit the Authorised Officer must ensure that the employer has read and understood the definition of worker form. The Authorised Officer must check that all workers have been noted on the statement of workers form.

29. The 'Statement of Workers' form [EC3](#) or [EC3W](#) must be completed. Where a computer printout is to be attached use page 1 plus the associated printout. Initial and date each printout page, making sure that each page is clearly numbered such as 'page 1 of x'.

30. Once the employer is satisfied that all the necessary details have been included they must be invited to complete and sign the declaration on the form.

31. Should the employer decline to sign the declaration, the investigator should, record the fact in their official Notebook along with any reason given.

32. As soon as reasonably practical a summary of the notes taken must be recorded as an activity on FRAIMS, see [FRAIMS guidance - Effective visit](#).

33. Should subsequent checks reveal that the statement of workers form contains an omission or false statement:

England and Wales – **[Redacted]**

Scotland – **[Redacted]**

34. The visit to the employer for the list of employees, and details of any discussions that take place at the time of the visit, must be recorded in the Authorised Officer's official notebook, see [Entries in Official Notebooks](#).

35. In all cases, make sure the following details are sought:

- the name of the company, the person's position in the company and how long they have held it
- who is responsible for hiring and dismissing staff
- does anyone else have the power to hire and fire? If so, consider obtaining a statement from them as well
- if the person is involved in any other businesses and
- are any other businesses run from the premises?

36. If another business is found to be linked to the individual or premises involved in the investigation it may be necessary to obtain a statement for workers for that business also.

37. The Authorised Officer must ensure that any list is provided in employer compliance with Section 109B of the Social Security Administration Act (SSAA) 1992 and that:

- all workers are listed for the specified period, past and present employed in any capacity, be it paid or unpaid and
- no one else has worked in any other capacity for the company other than those referred to.

38. After the Authorised Officer has obtained the list of workers signed by the employer that must be the end of the visit.

39. If the Authorised Officer feels it is relevant to carry out further questioning, for example, to clarify outstanding issues, that questioning must be relevant to Section 109C. **[Redacted]**

40. If the list includes employees in receipt of benefit who have failed to declare their employment, EQ1s must be sent to the employer by an authorised officer for wage details.

41. If the Authorised Officer suspects the statement obtained is false and wishes to question the employer further with regards to this, a caution must be administered.

Examples of this would be:

[Redacted]

42. A false statement can be oral as well as written. An employer may not be willing or able to provide an Authorised Officer with a signed statement, for example, because they have a broken arm.

43. In these types of cases the contemporaneous signed and dated official Notebook notes will be the evidence.

44. For further information see [Entries in Official Notebooks](#).

Threats of violence, obstruction or refusal to provide information

45. If an employer becomes abusive, record what is said, particularly if the employer threatens physical violence. A court may take a more serious view of someone who threatens an Investigator during the course of an investigation.

46. In cases where the employer is being obstructive, bring the relevant extracts of the information leaflet/Code of Practice to the attention of the employer.

47. If the employer continues to be obstructive consider prosecution under section 111. Section 111 (1) (a) of the Social Security Administration Act (SSAA) 1992 states that:

'If a person intentionally delays or obstructs an inspector in the exercise of any power under this Act he shall be guilty of an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale.'

48. If an employer refuses to provide the information requested under section 109B of the SSAA 1992, and attempts have been made to Interview Under Caution (IUC) the employer, prepare the case for prosecution under section 111 (1) (b) which states that:

'If a person refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Act he shall be guilty of an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale.'

03 Interviewing the employer

Claimants

1. An investigator, accompanied by another investigator if possible, should conduct an Interview Under Caution (IUC) with the claimant, after it is suspected the employer has made a false statement, but before the employer is interviewed under caution.

2. The purpose of this interview is to put the evidence to the claimant and if work is admitted to obtain employment details, such as start date, hours worked and wages received.

3. **[Redacted]**

4. If the claimant admits to the work, the investigator should ask the claimant if they are prepared to provide a witness statement that may be used in evidence against the employer. Remember that this is voluntary and cannot be enforced.

5. Further information on conducting IUCs can be found in [Conducting the IUC](#).

Employers

6. Once the investigator has gathered all the evidence and has enough grounds to suspect the employer has committed an offence, two investigators should interview the employer under caution.

7. At the interview the Investigator must:

- administer a caution and inform them of their right to seek legal representation or have a witness present
- test the employer's understanding of the caution and their rights
- inform the employer of any new information that has come to light
- ask if the information given by the interviewee on a specified date was true and complete
- introduce the evidence that has been gathered, for example, the statement of workers form, the record of employer visit and witness statements
- try to obtain the maximum amount of information possible with regards to the claimant's employment, as well as the extent of the employer's involvement
- establish whether the employer knew the claimant was in receipt of benefit whilst employed
- attempt to establish why the employer supplied the false information
- in England and Wales, put an allegation to the employer if they are satisfied the evidence has established that the employer has committed an offence. In Scotland, there is no requirement to put an allegation, and
- if the interview is not taped, ask the employer to read the contemporaneous record of the interview on the [CI9 \(link is external\)](#)/[CI9 Cont \(link is external\)](#) /[CI9S \(link is external\)](#)/[CI9S Cont \(link is external\)](#)/[CI9W \(link is external\)](#)/[CI9W Cont \(link is external\)](#) and invite them to sign it if they agree it is an accurate record.

8. If at any stage of the interview, the employer offers the correct information, the investigator should inform the employer that the details will be taken at the end of the interview. Those details should then be recorded on a separate form, [EC3 \(link is external\)](#)/[EC3W \(link is external\)](#). Where an employer offers the information, during the interview the requirements of Section 109B or Section 109C of the Social Security Administration Act (SSAA) 1992 will not have been satisfied.

9. For further information, see [Interview Under Caution](#).

Questions that can be asked during an Interview Under Caution

10. Below are examples of questions that can be asked during an Interview Under Caution (IUC). Although the questions are grouped together some are relevant to the employer, others to the claimant.

11. The examples below are not prescriptive or exhaustive:

Encouraging and assisting crime, conspiracy, aiding, abetting, counselling or procuring and Art and Part
[Redacted]

False statement
[Redacted]

If not:

[Redacted]

False accounting
[Redacted]

12. Where an employer fails to attend the IUC and all reasonable attempts have been made to interview him, AND there is sufficient evidence to prove the case, submit the case for prosecution in the normal way.

04 Fraud penalties and closure action

Employer Administrative Penalties

1. When an Employer Administrative Penalty (Employer Ad-Pen) has been accepted, record these details on the FRAIMS case.
2. As no benefit overpayment will be established in Employer Ad-Pen cases record the overpayment as £00.00 on the Over/Underpayment screen on FRAIMS.
3. Details of the amount of the Employer Ad-Pen accepted must be recorded in the Contact Penalty view, see [FRAIMS guidance - Recording an Employer Administrative Penalty](#).

Prosecution

4. Files submitted to the relevant prosecuting authority in respect of employer compliance investigations should contain:

- a typed case summary / CSUS7 in Scotland
- the original and a typed transcript of the initial interview with the employer and, if prosecuted by the Crown Prosecution Service (CPS), three copies of the typed version of the [MG11pt1 \(link is external\)](#)/[MG11pt2 \(link is external\)](#)/[CI8 \(link is external\)](#)/[CI8S \(link is external\)](#)/[CI8W \(link is external\)](#) form
- a copy of the observation log, colour coded in Scotland / official notebook notes
- the original, typed version and, if prosecuted by the CPS, three copies of the type version of the MG11/CI8 statement from employees and/or other witnesses
- **England & Wales**, a typed transcript of the employer's Interview Under Caution (IUC) and, if prosecuted by the CPS, three copies. A typed summary might be acceptable but only when there is a clear unequivocal admission
- **Scotland**, a completed record of IUC in false statement/information cases. For other cases, a CI8 along with supporting minutes
- originals and, if prosecuted by the CPS, three copies of any exhibited documents/statements, for example, wages records and definition of workers form
- a completed statement of workers form in false statement/information cases and a witness statement from the Authorised Officer who conducted the employer visit to exhibit the statement of workers form
- photographic/video evidence
- a covering summary/checklist form and
- a photocopy of all documents relevant to the prosecution.

Investigation costs for recovery - England and Wales only

5. Consider recovering costs against either the employer, or the claimant, or both. A copy of the [EC6 \(link is external\)](#) should be included in the prosecution file.

Notification of the end of an enquiry

6. Where an employer has been investigated for possible employment fraud and no action is to be taken as a consequence of that investigation the employer should be issued with the [CI7 \(link is external\)](#)/[CI7W \(link is external\)](#) as soon as possible.
7. For more information, see [Closure Action – Non fraud penalty Case](#).

Evidence Files

00 Introduction

The provisions of the [Criminal Procedure and Investigations Act 1996 \(link is external\)](#) in England and Wales require the:

- investigating officer
 - disclosure officer and
 - officer in charge of an investigation
- ensure that all information obtained in the course of a criminal investigation is recorded and retained.

2. For more information, see [Treatment of Information](#).

3. In Scotland, evidence should be gathered in accordance with relevant common law and statutory provisions, including the [Criminal Procedure \(Scotland\) Act 1995 \(link is external\)](#).

4. If there is a failure to undertake a quality investigation and to correctly record and retain all evidence/information gathered, the prosecuting authority may not accept the case for prosecution.

5. All Counter Fraud Compliance Directorate investigations are recorded and case managed on the Fraud Referral and Intervention Management System (FRAIMS).

01 Evidence file layout

Raising an evidence file

An evidence file must be raised when clerical forms of evidence, such as bank statements, wage details have been received.

The front of the file must include, as a minimum, the:

- Fraud Referral and Intervention Management System (FRAIMS) case number allocated
- file name:
 - claimant's name, or
 - operation title
- address
- date of birth
- National Insurance Number (NINO)
- claimant's details:
- officer in charge of the investigation
- date the file was set up

The file is a living document and items will be placed in it throughout the investigation. The majority of previous case details documenting the offence type and any outcome recorded, including overpayment periods and amounts, are available via FRAIMS, therefore dormant files should not be retrieved from storage.

Exceptions to this should be rare and require the approval of the Investigations Team Leader or Higher Investigations Leader, which must be clearly documented as an activity on FRAIMS outlining the reasons why dormant files are required.

File Layout

All documents in Department for Work and Pensions (DWP) fraud files must be filed in chronological order within the appropriate heading.

Documents must not be placed in plastic wallets, as over time print is lifted off the paper making the document illegible.

Thermal fax paper should be photocopied before placing on file as the print fades over time.

Large documents must be placed in an envelope and the contents written on the front before tagging in the file in the normal way.

Right hand side

It is important that when filing documents on the right hand side of the file, a full record is made on the Fraud Referral and Intervention Management System (FRAIMS) case.

The following documents are required in order from the top:

- record of officers engaged in the investigation [PF16 \(link is external\)](#), mandatory for England & Wales (E&W)
- copy of the request for details of previous convictions (NPA01), not Scotland
- validation material not relevant to the fraud penalty, for example, copies of memos or letters to third parties including any replies generated
- claim documents, not intended to be shown at Interview Under Caution (IUC) or to be exhibits
- record of original allegation or query, if in clerical format
- documents to prove knowledge:
 - ES40(JP) or Signing card
 - conditions of entitlement leaflets issued to the claimant
 - previous statements made in acknowledgement of conditions of entitlement and/or previous IUCs transcripts
- FPA4/5 and overpayment repayment letter for Housing Benefit (HB)/Council Tax Benefit (CTB) (prior to 1 April 2013)
- LT54, QB16, and overpayment decision and repayment letter for each DWP benefit
- IUC tape notice, E&W only
- [C110 \(link is external\)](#), E&W only
- record of interview(s) under caution
- CP2(LT) if applicable
- witness statements from the investigator
- witness statement or statements from third parties relating to each type of offence
- linking documents
- charge documents, for example, JSA 24(JP)s, claim forms, E&W only
- EQ1 and/or any document proving the offence
- Fraud penalty material
- results of the check of previous convictions or fraud penalties
 - prosecution submission
 - authorisation sheets from the Operational Intelligence Unit (OIU) Authorised Officers
 - Secretary of State Certificate or Lord Advocate's Certificate
- in England, the Secretary of State Certificate S116(2) of the Social Security Administration Act (SSAA) 1992 is required for cases that are time barred and are to be prosecuted under section 112
- in Scotland, a Lord Advocate's Certificate is applied for by the Procurator Fiscal (PF). The reporting agency may include such applications in their report
- **[Redacted]**

Disturbing or graphic material

Where material has been obtained which could be classified as disturbing or graphic, or could be seen by some staff as offensive, it must be filed in a separate opaque file, wallet or envelope and tagged inside the main evidence file.

The file, wallet or envelope, should be annotated on the outside with:

‘This file / wallet / envelope* contains material of a graphic or disturbing nature, which some staff may find offensive.’

* Delete as required.

The material should remain in the protective file or wallet at all times and care must be taken when viewing the material to ensure it is only viewed by persons with a business need.

If there are doubts about the classification of such material, caution must be exercised and advice sought from the manager.

Recording Information

Where minutes or actions taken are recorded, they must be recorded electronically on Fraud Referral and Intervention Management System (FRAIMS).

Any notes made on FRAIMS must not be personal comments, biased opinions or anything that could be interpreted as either racist or sexist. Such comments could undermine a fraud penalty and/or lead to a Subject Access Request (SAR) complaint being made, for further information, see the [Subject Access Request Guide](#).

Access to a case or a copy of information contained within the file may be requested by various bodies. This may include:

- Defence Solicitors
 - Procurator Fiscal (PF)
 - Local Authority Legal Section or Agent Solicitor
 - Crown Prosecution Service (CPS)
 - the Police
 - the claimant
 - Other Government bodies that may require access to information under legal gateways
- The introduction of the [Data Protection Act 2018 \(link is external\)](#) gives the claimant the right to request sight of any records relevant to them once the investigation is complete. Whilst the investigation is ongoing there is a Data Protection Act (DPA) 2018 exemption that may prevent the claimant from having sight of any personal information relevant to the investigation.

If a Subject Access Request (SAR) is received requesting details of any investigation, refer to the relevant data protection guidance.

Where an investigation results in an overpayment and/or Monetary Value of Adjustment (MVA), it is important to record the details on FRAIMS.

Also, attach a copy of the overpayment letter including the ‘without prejudice’ statement and the:

- appropriate rate(s) of benefit payable upon completion of the investigation
- date(s) from which the change(s) took place

Transferring the case to compliance

Cases may be referred to Compliance where, during the course of an investigation but before the Interview Under Caution (IUC) letter has been issued to the claimant, it is decided that the case is unlikely to result in a fraud prosecution.

Transfer appropriate

Where the case is suitable for transfer to Compliance, the investigator must record on Fraud Referral and Intervention Management System (FRAIMS):

- reason for the investigation
- actions taken during the investigation
- why further investigation will not lead to a fraud penalty outcome
- justification for transferring the investigation to Compliance

The case must then be forwarded to an officer of at least Investigations Team Leader or Higher Investigations Leader grade to decide whether the case should be transferred to Compliance, or if not appropriate, direct further criminal investigation.

The manager should record their decision on the case, see [FRAIMS guidance - Downgrading a case](#).

Any supporting evidence must be held until advised by Admin by e mail, of the name and location of the Compliance Officer that the case has been assigned to. Ensure **all** sensitive material, including information obtained via the Operational Intelligence Unit (OIU), is marked appropriately prior to sending where necessary.

Files must be sent securely in line with DWP policy, see Movement of Documents - [Courier](#).

Where transfer action is not appropriate the file should be pursued to completion by the Investigation team (including obtaining overpayment calculations) and then closed on FRAIMS See [FRAIMS guidance – Closing the Case](#).

Closing evidence files

Following the closure of a case on Fraud Referral and Intervention Management System (FRAIMS), the evidence file must be Put Away (PA) and the documents retained in line with current Department for Work and Pensions (DWP) policy, see the [Information Management Policy \(link is external\)](#).

02 Sensitive information

The Code of Practice under Part II of the Criminal Procedures and Investigation Act (CPIA) 1996 defines sensitive material as:

‘material, the disclosure of which the disclosure officer believes, would give rise to a real risk of serious prejudice to an important public interest’.

Examples of this are:

- material that may reveal investigative methods, techniques and/or sources, for example surveillance procedures and techniques, and information/intelligence sources
- photographic or video evidence obtained from third party premises.

This list is not exhaustive.

In Department for Work and Pensions, there may be other instances where information received must be marked as sensitive.

It is essential that you consider all information received at the start of or during an investigation, and where it is deemed to be sensitive information, clearly identify it as such. This is to ensure that such information is not disclosed at any stage to the claimant.

Information received from members of staff or the public

The Department for Work and Pensions encourages members of staff or the public to report allegations of benefit fraud and provides processes for this information to be provided in confidence.

Therefore, any information provided by a member of staff or the public must be treated as sensitive, if there is a possibility that the claimant could identify them if it were disclosed. The

identity of the referral source must always be classed as sensitive and must never be revealed.

Only where a member of staff or the public gives their explicit permission for the information to be disclosed can it be considered for use as evidence. However, investigators must never rely solely on sensitive material provided by a member of staff or the public, and must seek to obtain further evidence to prove or disprove the allegation. This is because evidence obtained through Counter Fraud and Compliance Directorate's legally compliant processes is less susceptible to challenge.

As a general rule, information provided by staff or the public must not be used in the course of a criminal investigation or criminal proceedings if the disclosure of the information could expose the identity of the person who provided the information.

Where consent to use the information has not been obtained, the investigator must approach the member of staff or the public for their permission to use/disclose the information/material that they have provided.

The investigator documents the informant's response in their official notebook (N1). The member of staff or the public must not be coerced into providing consent.

In all cases, the investigator must ensure that the member of staff or the public is fully aware of the possible consequences of disclosing this information. Where they are willing to allow the information to be disclosed, a witness statement must be obtained to cover the use of the information as evidence.

For more information on the completion of witness statements, see [Witness Statements](#).

Where the identity of the member of staff or public is unknown, but it is believed that the claimant would be able to identify them from the information received, this information must be marked as sensitive and must not be disclosed.

Failure to correctly identify sensitive information is a breach of our duty of confidentiality to the informant and may lead to embarrassment for the Department and claims for compensation, if the disclosure of the information results in the informant suffering harm.

Examples of sensitive material

The following are examples of materials that could be classed as sensitive as they may contain third party or collateral information:

- a letter, FRF, or FPA2/FPA2W that could identify the person making an allegation of benefit fraud
[Redacted]

This list is not exhaustive.

Decision Makers

Evidence to be passed to a decision maker remain subject to consideration under the data protection policy, however un-redacted versions of relevant information, including the necessary details of the 3rd party, may be disclosed in certain circumstances. See RM7 sensitivity checks and [redaction](#).

Marking information as sensitive

Any document that is considered to contain sensitive information must be annotated in the top right hand corner in red **Sensitive information – not for disclosure**. The corresponding file minute must also include the same annotation in red.

Any information that is recorded in the file minutes that is considered to be sensitive must be identified and annotated in **red sensitive information – not for disclosure**.

Review of sensitive information marking

During the course of the investigation, it may become evident that the information is no longer sensitive. For example, where the member of staff or the public has given their explicit consent for the information to be disclosed. In these circumstances the reasons for the

reclassification must be noted and the sensitive annotation crossed through. The information must then be annotated **Sensitive Marking Removed**.

Redaction

Redaction is the act or process of reducing content of a document, hiding content prior to publication or reviewing by other parties, in such a way that it can be seen that content has been hidden:

- to have all confidential and sensitive information taken out of it.
- the censoring or obscuring of part of a text for legal or security purposes.
- the deletion of private, personal or sensitive information.

Identity details of the person who is the subject of the sanction don't need to be redacted except for financial account details as shown below.

Evidentially relevant information (including addresses) in the body of a witness statement is not to be redacted.

Example: suspect A claims Income Support as a lone parent and asserts that alleged partner B does not live with her (A) but supposedly lives with his Aunt ("C") at Cs address. Aunt "C" then testifies for DWP in a witness statement that B does not and never has lived with her ("C") - and C's address is NOT redacted from the body of C's witness statement - as C's home address and who lives there is the very essence of why she (C) is testifying in open Court in first place.

Why is it redacted?

The GDPR sets out a number of principles requiring those who handle data, such as DWP, to manage it with great care namely:

- Personal data shall be processed fairly and lawfully
- Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

The Act recognises that it is sometimes appropriate to disclose personal data for certain purposes to do with criminal justice or the taxation system. In these cases, individuals' rights may occasionally need to be restricted. In particular, the Act deals with several situations in which personal data is processed for "crime and taxation purposes", namely:

- the prevention or detection of crime,
- the capture or prosecution of offenders and
- the assessment or collection of tax or duty.

The DWP would be unlikely to be able to rely on this exemption if irrelevant personal data which had no bearing on the case was wrongfully or negligently disclosed.

The information determined to be redacted has no bearing on the offence and/or is not required by legal Office/CPS Lawyer to prove the case.

How is it redacted?

The information must be blacked out on a copy – **do not** redact on the original. Both versions must be retained. The act of redaction is at the discretion of CFCD and any requests to provide unredacted material which was previously redacted, should be given careful consideration as to whether it is essential for a decision and if it isn't then the request should be declined.

Examples of information and documents for consideration. (Each individual documents content must be considered, based on the case/offence – this list is not exhaustive)

[Redacted]

Note – The provision of information must be considered on a case by case basis. If you are providing un-redacted information you need to consider whether its disclosure is required to prove the case as part of the proceedings.

Missing Files

Missing File Report

1. If a clerical file held by the Counter Fraud and Compliance Directorate (CFCD) is found to be missing or lost, the following procedures must be followed.
2. The primary case owner/investigator must initiate missing file action by completing the [MF1](#)

Referral process

Investigator action

3. The investigator must complete all field in Part A within 48 hours of establishing that an evidence file is missing.
4. The information recorded must include:
 - details of the claimant
 - the FRAIMS Case Number
 - details of the officer/investigator initiating missing file action
 - the stage of investigation
 - whether or not EQ1 details have been requested and
 - the date and location the missing evidence file was last seen
 - details of any searches already conducted.
5. After completing Part A, attach copies of relevant official notebook entries and pass the form to the Team Leader (TL) / Higher Investigations Leader (HIL).

Team Leader / Higher Investigations Leader action

6. On receipt of the [MF1 \(link is external\)](#), the Team Leader (TL) / Higher Investigations Leader (HIL) must consider whether or not to interview the investigator regarding the missing evidence file.
7. There may be security implications established that need highlighting in relation to the claimant. This will be based on information held on the missing file, for example, bank details, third party details, employment history.
8. In all cases, the locally nominated security incident officer must be informed of the missing file.
9. Dependant on the both the information lost and/or, the nature of the loss, the TL / HIL should consider notifying the Senior Investigations Leader (SIL) and/or Data Protection Officer.
10. A nominated officer, Band B or above, independent of the investigation, must conduct a search for the missing file. The search must be conducted within ten working days of nomination with all findings being reported back to the TL / HIL.
11. Part B of the form must be completed by the TL / HIL. Detail:
 - if the investigator has been interviewed or not, the date entered should be the date of the interview or the date the TL / HIL decides not to interview
 - any security implications highlighted
 - the name of the locally nominated security officer, and
 - the name of the officer nominated to undertaking the search

12. Once the TL / HIL has decided what action is required, create an activity and set a B/F (Due Date) to check the outcome of the search.

13. Note the details on the FRAIMS case, see [FRAIMS guidance – Recording Missing Clerical File Action – Manager actions](#).

14. Parts A and B should remain with the TL / HIL and must not be passed to the nominated officer.

15. This is to ensure that potential security implications are not widely circulated and that the nominated officer conducts a full search irrespective of information supplied by the investigator. However, initially the TL / HIL may wish to direct the search. Completed Part A and B should be placed in a b/f run.

Nominated officer action

16. The Nominated Officer must conduct the search within 10 working days.

17. The [MF3 \(link is external\)](#) must be used when requesting search assistance from sections that may have the file.

18. The nominated officer must record details of the search action at Part C, including:

- the search date
- the locations searched, and
- any other relevant information.

19. Return the MF1 plus any returned MF3s to the TL / HIL.

20. If, by the tenth working day, search action is still outstanding, for example, where the nominated officer is awaiting the return of a Section Search Request, details must be sent to the TL / HIL in a separate minute.

Team Leader or Higher Investigations Leader action following the search

Missing file located

21. If the missing clerical file is located during the search period, the Team Leader (TL) / Higher Investigations Leader (HIL) must notify the nominated security officer, and the Senior Investigations Leader (SIL) and Data Protection Officer if they were made aware of the loss, and complete Part D of the MF1.

22. Any follow up action required must be noted at Part E of the [MF1 \(link is external\)](#).

Missing file not located

23. If the file is **not** found the TL / HIL must give full consideration to the raising of a duplicate evidence file. The TL / HIL's decision will be dependant on the stage the investigation has reached and any anticipated result.

24. Details of the progression of the investigation and transcripts of interviews will be available on FRAIMS. However if the TL / HIL decides that a duplicate evidence file should be raised it may be necessary to obtain a duplicate EQ1 from an employer and witness statements.

25. If a duplicate evidence file is to be created, this should be noted in the Activity Description field. The evidence file will retain the same FRAIMS case number, see [FRAIMS guidance – Recording Missing Clerical File Action – Manager actions](#).

26. If the TL / HIL decides that a duplicate file will **not** be raised, close the case on FRAIMS, see [FRAIMS guidance – Closing a Case](#).

TL / HIL follow up action

27. Regardless of the outcome of the search, the TL / HIL must complete Part E of the MF1, including highlighting any recommended follow up action.

28. Follow up action may include a request for the investigator to provide details on the outcome of the case in question. This may highlight problems where delay, due to the file going missing, has impacted on the final result.

29. The TL / HIL must notify all relevant officers of the outcome of the search by completing the [MF2 \(link is external\)](#).

30. The MF1 must not be placed in the located file, or on the duplicate file if one is raised, however a file minute must acknowledge any delay or why a duplicate file has been raised.

31. Note the FRAIMS case activity of the outcome of the actions taken and if a duplicate file has been set up.

Missing File Report

32. The MF2 is completed by the TL / HIL and must be used to notify the locally nominated security incident officer, data protection officer, SIL of the missing file. It should include details of potential security implications and action taken to date.

Missing file trends

33. On completion of missing file action the Team Leader (TL) / Higher Investigations Leader (HIL) must ensure that all relevant information is transferred on to the [MF4 \(link is external\)](#).

34. The other MF series forms used during the missing file process must be destroyed at this stage, or as soon as there is no longer a business requirement to hold on to them

35. This is in accordance with principle 5 of the Data Protection Act 2018:

'Personal data processed for any purpose of purposes shall not be kept for longer than is necessary for that purpose or those purposes'.

36. Information to be documented in 'Findings' should include:

- where missing file was located, for example, Overpayment Section
- how long, if known, the file had been at that location, and
- the reason for delay in actioning.

37. These details may help to highlight trends that may require follow-up action to address a specific problem.

Note: Claimant details must NOT be recorded on the MF4.

Evidence Gathering

00 Introduction

Introduction

1. The aim of a criminal investigation is to gather evidence which proves, or disproves, that a criminal offence has been committed against the Department for Work and Pensions (DWP)/Local Authority (LA) and who committed that offence.

2. The outcome of the investigation may be that no offence has been committed or it was committed by someone other than the person(s) named in the allegation or query, or identified during the investigation.

3. Evidence can be defined as 'something that tends to prove or disprove a fact'. Counter Fraud Compliance Directorate investigators are responsible for gathering sufficient reliable and admissible evidence to satisfy the prosecuting lawyer that there is a realistic prospect of convicting the suspect and that it is in the public interest to prosecute.

4. It is a fundamental principle of criminal law that a person is innocent until proven guilty. The accused retains a right of silence and is not required to say anything when questioned on matters relating to his/her involvement in a criminal offence.

5. The prosecution must obtain sufficient evidence to prove the case to the criminal standard, which is beyond reasonable doubt. The criminal standard is not discharged easily, so it is therefore important to attempt to gather convincing and relevant evidence in a criminal investigation.

6. The admissibility and treatment of evidence in criminal proceedings is wholly different to the admissibility and treatment of evidence in civil proceedings.

7. In civil proceedings the evidential standard is on the balance of probabilities. It is easier to discharge the civil evidential burden than it is to discharge the criminal evidential burden.

8. Hearsay evidence is admissible in civil proceedings. In criminal proceedings, it is more difficult to introduce hearsay evidence.

9. This means a Decision Maker (DM) or an Appeal Tribunal can base their findings on hearsay evidence, whereas in the criminal proceedings the court will determine a hearsay application before allowing the introduction of hearsay evidence.

01 Legal and Policy Constraints

When does the criminal investigation start?

1. The evidence gathering process commences when information is initially received suggesting an offence may have been committed and a decision is taken to act on the referral. From that point, all material gathered forms part of the criminal investigation and is therefore subject to the rules of disclosure.

2. All investigators will ensure that all evidence is lawfully obtained and it is recorded, and in England and Wales (E&W) is retained in accordance with the Criminal Procedure and Investigations Act (CPIA) 1996. For further information for England and Wales, see [Treatment of Information](#).

Policy on delay

3. All officers involved in investigations have a professional duty to progress all cases as quickly as possible, recognising that under Article 6 of the European Convention on Human Rights (ECHR) defendants have the right to a fair trial within a reasonable time.

4. No case should be inactive for over 6 months. Gaps in activity in excess of 28 days require an explanation for the Crown Prosecution Service (CPS). The brought forward (BF) entry into Fraud Referral and Interventions Management System (FRAIMS) must show a specific reason for any extended BF such as 'X Pensions Company take Y weeks to reply, therefore BF set for Z weeks'. It is important that all delays in the investigation are explained on FRAIMS, including delays in administration, such as:

- internal procedures
- problems with document retrieval.

The overriding principles on delays over 28 days are:

- where circumstances outside of the control of the caseholder means a BF date needs to be longer than 28 days, such that reviewing the file earlier than the new date being set would be pointless
 - the reason for the extended BF date is clearly recorded on the FRAIMS at the time that the review date is set further forward
 - where a longer review period has been set, if information is received before expiry of the BF date, the case must be progressed without further delay
 - BF dates must be cleared within 5 working days of the date.
5. For time-barred cases where the Team Leader or Higher Investigation Leader feels justified in recommending prosecution despite a lengthy delay, a chronology to fully explain any delay

must be provided on the prosecution file. A well-defined BF delay explanation must be provided. See: [Offences subject to time-bar](#).

6. It is the responsibility of the Investigator to demonstrate that they have attempted to address the delay by, for example:

- issuing reminders to and or requesting updates from Debt Management on non-receipt of recoverability decision (DL ORG7)
- liaising with Intelligence Gathering Officers (IGOs) to attempt to resolve delays in obtaining evidence from information providers
- contact with employers to resolve delays in obtaining completed EQ1s
- issuing appointment letters for Interview Under Caution (IUC) timeously

7. The Crown Prosecution Service (CPS), are bound by the Code for Crown Prosecutors to consider the delay between the commission of the offence and the date of trial, and are duty bound to continually review the evidential and public interest tests throughout all prosecution cases.

8. CPS may reject or withdraw cases where it believes that the delay is so exceptional that it will be unacceptable to the court.

9. In Scotland, the Procurator Fiscal (PF) also considers issues of delay and public interest under the Crown Office and Procurator Fiscal Service (COPFS) Prosecution Code.

Who can gather evidence?

10. In the Department for Work and Pensions (DWP), Counter Fraud Compliance Directorate (CFCD) Operational Intelligence Units (OIUs) separate evidence gathering into an intelligence gathering function and an investigative function. The process ensures that procedures and instructions are robust and legal.

11. For detailed guidance on the types of information, investigators can obtain, and those that must be obtained by the OIU, see Intelligence Gathering [Appendix 1 - Who Does What](#). For information requests made by investigators FRAIMS form IG38DP or IG38DP Local should be used.

12. Also see the [FIS Points To Prove Aide-memoire](#). ([link is external](#))

13. In addition to the department's policy on the use of OIUs for intelligence gathering, the statutory Code of Practice on Obtaining Information under the Social Security Administration Act (SSAA) 1992 as amended by the Social Security Fraud Act (SSFA) 2001 states that any information required from institutions as defined by the Act may only be obtained by Authorised Officers within OIUs.

Proper manner of obtaining evidence

14. Whatever the evidence says and however potentially useful it is, if it is not obtained in the proper manner the court may decide the evidence is inadmissible and the prosecution will not be able to use that piece of evidence to prove its case.

Recording and retention of evidence

15. In England and Wales (E&W), evidence must be recorded and retained in accordance with the Code of Practice issued under Part II of the Criminal Procedures and Investigation Act (CPIA) 1996.

16. Although the CPIA 1996 Code of Practice (COP) does not apply in Scotland, records on Scottish investigative files should be maintained to the same standard as a matter of good practice.

What evidence is required?

17. Before the evidence gathering process commences the investigator must consider the:

- nature of the alleged offence(s) that need to be investigated

- evidence required to prove or disprove the allegation or query
- most effective means of gathering the evidence

18. Thoroughness throughout the investigation is more likely to reveal at an early stage cases in which no criminal offence has been committed, where there is official error, where the available evidence is inadequate or inadmissible or a witness is unreliable. There may also be full admissions at the Interview Under Caution (IUC), which may reduce the likelihood of a trial.

19. As a minimum, investigators need to ensure that the file submitted to the prosecuting authority contains evidence which proves the following:

The basis of the claim

- the benefit(s) in payment to the suspect
 - the conditions of entitlement
 - factors which would have affected the suspect's entitlement to benefit
 - declarations made by the suspect and what he was required to report
20. In Counter Fraud Compliance Directorate (CFCD) cases, this will include:

- obtaining and checking claim documents, printouts and screen prints for all benefits paid
- screen prints must not be taken where they confirm a different address for the children to that of the parent but the detail of the search should be recorded on FRAIMS
- retrieving claim forms and other false documents, for example, cashed cheques
- obtaining ES24JPs, A6s and specimen benefit documents, for example, ES40JPs, INF4s and familiarising themselves with the rules for benefit

21. In Local Authority (LA) cases it will include checking claim forms, Information Technology (IT) links to Department for Work and Pensions (DWP) screens and other benefit documentation.

The circumstances of the offence

- why the suspect's declarations were false, if there are false declarations
- what the suspect failed to report
- why the claim was false

22. This may involve obtaining EQ1s or other documents and/or witness statements proving why the claim was false.

The identity of the offender

23. Evidence is required to establish that the person being investigated is the person who made the false representation.

24. This may involve obtaining recognition evidence from a witness or obtaining identification evidence.

Calculation of overpayment

25. This involves liaising with benefit Decision Makers (DMs), reassessment sections within the Department for Work and Pensions, Pensions, Disability and Carers Service (PDCS) and Debt Management Service (DMS).

26. The actions involved in liaising with DMs must be recorded on FRAIMS, for more information, see [FRAIMS Guidance – Benefit Decision Required - FIS action](#).

Knowledge, dishonesty or intention

27. This may involve checking the benefit documents for notes of visits, telephone conversations and/or interviews when benefit entitlement was explained, for example, the claimant may have declared work on previous occasions

28. This is often established at Interview Under Caution (IUC), investigators should question around any false statements and challenge responses appropriately to establish that the person making it knows that it is, or might be, untrue or misleading.

29. Dishonesty should be shown wherever possible and if dishonesty is denied, follow up questions should be asked.

30. In cases dealt with by the CFCD Criminal Investigations the fraud may not be on an individual's claim as the person being investigated is often not in receipt of benefit in their own right.

31. In every investigation, no matter how brief, all investigators must ensure:

- all investigation notes must be detailed on FRAIMS
- all recorded information is strictly factual, for example, do not include opinions or personal remarks
- records are kept of all information obtained in the course of the investigation even when it does not appear to be relevant to the case
- all reasonable lines of enquiry are pursued in the course of an investigation, including those which do not support the line of the investigation
- all written and computer records, for example, documents, print-outs, forms, statements, etcetera are retained and identified

32. In Scotland, the requirement for corroboration means that all essential facts that constitute the offence need to be supported by two independent sources of evidence, such as two witnesses.

02 Evidence

Types of evidence

1. Evidence can be classified into three categories:

- oral evidence or testimony - calling witnesses
- real evidence - producing items
- documentary evidence - producing documents.

Oral evidence or testimony

2. This is the direct oral account of a witness in court from his or her own personal knowledge or recollection.

For example:

- an employer recalling and confirming to the court that a particular person worked for them
- a Department for Work and Pensions (DWP) or local authority (LA) officer telling the court about specific procedures for claiming and payment of benefit
- in addition, the employer or investigator usually needs to rely on information in documents. Such documents are classed as documentary evidence
- evidence given by a witness who is acknowledged as an expert, for example: a handwriting analyst. An expert witness is permitted to give an opinion based on their expert knowledge
- surveillance evidence, testimony of what is seen or witnessed during the course of surveillance.

Real evidence

3. Exhibited evidence consisting of objects whose existence or condition is the evidence rather than any information contained by that object. For example: a manipulated cheque may be exhibited by a witness as evidence of its alteration, rather than as proof that benefit was in payment.

Documentary evidence

4. This can be anything gathered during the course of the investigation that proves a fact. This is not only documents in writing, it can also include:

- photographs
- maps
- plans
- drawings
- forms, EQ1 also known as Statement of Earnings (SOE)

- benefit claim forms
- witness statements
- identity documents
- documents from financial institutions
- Closed Circuit Television (CCTV) images.

5. If additional information is received from the local authority which can't be transcribed on to the Fraud Referral Form (FRF) due to FRAIMS capacity restrictions, CRS uploads this information to Document Repository System (DRS) and notes the FRF to advise the Investigator this has been done and that it is linked in DRS by the FRAIMS case number.

Also noted in the FRF is:

- the document type noted as an abbreviation and the date it was entered onto DRS, for example, White Mail Unstructured is **WMUS [date]**
- the document status is noted as **Open** for the Investigator to close. The Investigator closes the document in DRS when they have collated all information, as per CFCD Investigation DRS instructions. After it is closed, the document falls out of DRS after 30 days.

6. You must give consideration to whether or not each piece of documentary evidence contains sensitive information.

7. For more information on what constitutes sensitive information and how to record this, see: [Sensitive Information](#).

Hearsay

8. A fact is proved by original evidence when it is proved by oral testimony in the proceedings from witnesses who have first-hand knowledge of that fact. If a witness lacks first-hand knowledge, for example they did not personally perceive or experience the fact or event in question, but has merely heard or read about it through statements made by others, any evidence that the witness purports to give on that matter is second-hand, and therefore, hearsay evidence.

9. A good working rule, when examining an item of evidence, is to begin by looking for the 'perceiver' or 'eye-witness' at the beginning of the chain. If there is such a person, then the fact or item of evidence may only be proved by calling that person to give oral evidence. Nothing else will do unless one of the exceptions to the rules on hearsay applies.

10. The rationale behind the hearsay rule is simple enough. When relevant evidence consists of perceptions, usually, but not necessarily visual, of a witness, the only way in which those perceptions may be proved is by calling the witness to give oral evidence, which may then be tested by cross-examination. The court is thereby given the opportunity of evaluating the reliability and truthfulness of the evidence at first hand.

11. When a witness uses hearsay evidence when providing a witness statement, the investigator must question the witness further and ascertain how they are able to give that account of events. The investigator must consider whether another witness would give a more reliable first hand account of those events.

12. There are however exceptions to the rule excluding hearsay evidence, these include:

- statements in public documents
- documentary hearsay in business documents; Criminal Justice Act (CJA) 2003 (England and Wales only) or Criminal Procedure (Scotland) Act (CP(S)A) 1995, Schedule 8 (Scotland only)
- provisions on hearsay evidence within the CJA 2003 or CP(S)A, Section 259.

Definitions of evidence

13. Evidence can also be classed as:

- irrebuttable presumptions of law, or conclusive presumptions, operate on the basis that on the proof or admission of a basic primary fact another fact must be presumed in which there is no evidence available which can rebut this fact. For instance, there is an irrebuttable presumption in law that no child under the age of 10, eight in Scotland, can be guilty of a criminal offence
- evidence tending to prove a fact. The EQ1 also known as Statement Of Earnings (SOE), admissions during an Interview Under Caution (IUC) and claim forms are examples of evidence which will be put before the court on the basis that it tends to prove a fact. It may still, however, be challenged by the defence

[Redacted]

[Redacted]

[Redacted]

- circumstantial evidence. This is evidence inferred from the existence or non-existence of facts. Examples include:
- the cumulative weight of circumstantial evidence, especially where there is a variety pointing to the same conclusion strengthens the probity of the evidence.

Obtaining evidence

14. The following are the most common methods of obtaining evidence:

- gathering documents, claim papers, handwriting, departmental system prints
- interviewing witnesses and obtaining witness statements
- interviewing under caution
- conducting authorised surveillance
- forensic analysis
- conducting identification procedures
- intelligence gathering

Gathering documents

15. Documentary evidence can be classified as:

- self-producing documents, which do not need to be supported by a witness statement in court, for example;. public records such as birth and marriage certificates or civil partnership certificates, office copies from the Land Registry, and so on
- documents that must be produced by a witness, by being exhibited or produced by a statement from that witness, for example, claim forms, wage records and in the event of a trial by producing the original documents at court. In Scotland, unless exceptions apply, such documents need to be spoken to by a witness in court.

16. Claim documents obtained in support of an investigation must be noted in Fraud Referral and Intervention Management System (FRAIMS) as an activity to verify what has been obtained and considered, and what action or implication follows.

17. In all cases, false representations made throughout the period of the offences must be obtained and it is irrelevant whether or not they are time-barred.

Where there is Local Authority interests:

Use the LAIEF (Local Authority Information Exchange Form). When you have reason to believe that a claimant notified another department of the change in circumstances, you must ask LAs if they received an Automated Transfers to Local Authority Systems (ATLAS) report in relation to that individual. [Redacted]

- It remains the responsibility of the claimant to notify the Local Authority directly of any changes in circumstances. It also remains the case that if a claimant has notified HMRC

about the change of circumstances this would not preclude a prosecution for failure to notify DWP or their Local Authority about specific changes affecting benefit claims through them. Disclosure responsibilities dictate that if in the course of an investigation, an investigator becomes aware that the claimant may have notified another department, the investigator should ask the LA if it received an **[Redacted]**. If so, its existence should be notified to the Crown Prosecution Service (CPS) in England and Wales or with the Crown Office and Procurator Fiscal service (COPFS) for Scotland, to allow consideration of whether it either undermines the prosecution or assists the defence; or whether there is sufficient evidence to produce a realistic prospect of conviction.

Saving TIFF image files or Photographs

Ø **OPEN** the Tiff document.

Ø This will open in Windows Photo Viewer

Ø Select **PRINT** from the menu at the top.

Ø Change the printer to **SEND TO ONENOTE 2010**.

Ø Select **OPTIONS** at the bottom right of the print box.

Ø Select **PRINTER PROPERTIES**.

Ø Then from **LAYOUT** change to correct orientation if the document is not in the correct orientation; click **OK**.

Ø Select **PRINT**.

Ø Green bar appears showing the pages being printed.

Ø OneNote opens.

Ø You will see a box asking to select a location

Ø **UNTITLED NOTES** is highlighted Click **OK**.

Ø Box says please wait.

Ø Document should then appear.

Ø Select **VIEW** from menu ribbon at the top.

Ø Click **HIDE TITLE PAGE** - this removes the extra box on the first page.

Ø Select **PRINT**.

Ø **PRINT PREVIEW**.

Ø **FOOTER BOX** – Select (**NONE**)

Ø To **SAVE** the document - click **SAVE AS** choose the option to save as **PDF** and then select location and name document

Ø Click on the Disc at the bottom right.

Ø The document should then convert to a **PDF** document.

These instructions can be used for documents in other formats such as PDF from DRS by following the same instructions

Best evidence

18. Where possible, the investigator must exhibit original claim documents. Copy documents are admissible. However, if the provenance of the copy document is disputed the investigator may be called upon to explain why the original document is no longer available.

19. If an original document is not available, a copy is acceptable, for example:

- if the original benefit claim form has been destroyed, a Document Image Processing (DIP), scanned or copy document would then be acceptable
- if an original cheque has been destroyed, in England and Wales a microfiche copy will be acceptable

20. In Scotland the copy must be authenticated in the proper form.

Electronic signatures

21. In some Jobcentres when a claimant claims Jobseekers Allowance (JSA) they will be required to give six sample signatures on an electronic signature pad. This is similar to the device postal workers use when a customer is required to sign for a parcel etc.

22. In these selected Jobcentres, each time a claimant is required to sign when claiming JSA to say that they have satisfied the benefit conditions, they will sign the electronic signature pad rather than a paper document such as an ES24.

23. The same declaration included on the ES24 will display on the electronic signature pad. The claimant will be required to read the declaration before signing the pad. This declaration will appear on the pad both before and after the signature is captured.

24. If the claimant says they are unable to read the declaration, the advisor will read it over to them.

25. The device will compare the signature with the samples given and let the adviser know whether the signature appears to be that of the claimant or is in doubt.

26. If there is a doubt that the signature is that of the claimant the person who has signed the pad will be asked to sign twice more. If the signature is still in doubt the adviser can over-ride the signature if they are satisfied that the person is the claimant. In these cases when the electronic device has raised a doubt, the adviser must say on the claim why they are satisfied that the person is the claimant.

27. Once accepted the electronic data that will show the declaration as well as the claimant's signature will be stored in the Document Repository System (DRS).

28. If the adviser is still not satisfied that the person giving the signature is the claimant payment of JSA will be refused.

29. These electronic forms will be stored in DRS. **[Redacted]**

30. These printed documents are acceptable as best evidence by the Crown Prosecution Service.

31. Electronic signatures only apply to JSA claimants.

Use and abuse of evidence

Sufficiency of evidence

32. The burden of proof in criminal proceedings is beyond reasonable doubt. This means that in a contested case, a court must be sure of the defendant's guilt before passing a guilty verdict. It is difficult to prescribe an absolute standard for the amount of evidence that will be required to satisfy a court of the defendant's guilt.

33. Each case presents slightly different features to another in terms of the:

- type of offence
- manner in which the offence was committed
- way in which evidence was gathered, recorded, and retained
- credibility and reliability of both prosecution and defence witnesses
- individual circumstances, physical and mental, of the offender
- motive for the offence
- type of court in which the case will be heard
- prejudices or natural bias of those trying the case, particularly a jury.

Code for Crown Prosecutors

34. Crown Prosecution Service (CPS) or Procurator Fiscal (PF) will only authorise a case as suitable for criminal proceedings if the full Code test in the Code for Crown Prosecutors (in

England and Wales) or the Prosecution Code of the Crown Office and PF (in Scotland) is satisfied. The full Code test covers two stages. They are:

- the evidential stage
- the public interest stage.

35. To satisfy the evidential stage the prosecutor must be satisfied that there is enough evidence to provide a realistic prospect of conviction against each defendant on each charge. This means that a jury, magistrates or Sheriffs, properly directed in accordance with the law, is more likely than not to convict the defendant.

36. The prosecuting authority must therefore consider whether:

- evidence has been legally obtained
- any confession obtained is reliable
- the prosecution witnesses and accompanying evidence is reliable and credible.

37. The evidence gathering role of the investigator does not cease after the file has been submitted to the prosecutor. The prosecutor may require evidence before or after authorising the case in preparation for trial. When requested to obtain further evidence, it will be the responsibility of the investigator to obtain it.

Improperly obtained evidence

Services provided by the suspect

38. [Redacted]

39. For further advice on Test Purchasing, see Applying for Direct Surveillance Authorisation - [Test Purchasing](#).

Discretion of the court to exclude evidence

40. The court has a discretionary power to exclude evidence. There is a common law power to exclude evidence obtained unlawfully, and in England and Wales (E&W), a power to exclude under Section 78 of Police and Criminal Evidence (PACE) Act 1984. This may be where having considered all the circumstances, including those in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court must not admit it.

Oppression and unreliable confessions

41. In addition to this general discretion, in E&W the court may under Section 76 of PACE require the prosecution to prove that a confession was not obtained either by oppression or in consequence of anything said or done that was likely to render it unreliable.

Corroboration

42. After the prosecuting authority has determined whether any evidence that has been obtained is likely to be admissible and not subject to exclusion, it will then decide whether that evidence is sufficient to prove all elements of the case.

43. In E&W, a conviction can be found upon uncorroborated evidence. Where possible investigating officers must obtain corroborative evidence because this will help strengthen the prosecution case.

44. In the Scottish criminal trial of Morton v HM Advocate, it was specified that in Scotland corroboration of all evidence is required from two sources. The pieces of evidence may be two eyewitness accounts, or a single eyewitness account and a piece of circumstantial evidence pointing to the guilt of the accused, or two pieces of circumstantial evidence.

45. There is provision for accepting a Special Knowledge Admission as corroboration where this is of sufficient detail that it could be only the person committing the crime who would be able to give the detailed information in the admission. It must be stressed that the level of detail must be very high indeed before this confession would be classed as 'self-corroborating'.

46. Such admissions must be obtained during the Interview Under Caution (IUC) after establishing the suspect's understanding of the benefit rules of entitlement. The admissions must be in response to open, not closed or leading, questions.

47. Nevertheless, Special Knowledge Admissions still require corroboration, and it is necessary to confirm that the offence was committed in the way described by the suspect. For example, an admission of a false tenancy fraud must be corroborated by evidence that the suspect completed the both the tenancy agreement and rent book or either themselves, or that forensic evidence can show that the handwriting on these documents is the suspects.

Evidence to be obtained by the police

48. Where corroboration is difficult to obtain because the investigator's powers are insufficient, recourse may be had to the police.

49. In E&W, this occurs mainly when real or documentary evidence may be seized as a result of a premises search.

50. In Scotland, Central Prosecution Team (CPT) may discuss the case with the PF, who may decide that a report must be formally submitted. After considering the report, the PF may decide to apply to the Sheriff for a warrant either for the police or the investigator to obtain the evidence.

Continuity of evidence

51. In strict evidential terms, continuity evidence is required for all prosecution evidence which has passed through more than one person, this includes the 'journey' taken by a claim form, an ES24JP, wage documents, etc. The requirement to prove continuity is not confined to forensic or photographic evidence.

52. Where one officer finds an article which is then passed directly or indirectly to a handwriting analyst, not only will the examiner be required to give evidence of the examination but also all those people through whose hands the article passed en route from the finder to the examiner. This is to demonstrate that the article was not changed in any way between finding and examination.

53. The proof of handling is known as the 'chain of evidence' and, as with a real chain, its strength is the strength of its weakest link. Each link must be individually identified and proved by the testimony of a witness for example, the witness statements detailing the taking and developing of photographic evidence.

54. In the event of articles being sealed with an official seal and transported between the two parties, for example, in a tamperproof evidence bag to LGC Forensics, it will not be necessary to include the carrier as a link in the chain as long as the dispatcher and recipient can speak to the integrity of the seal used.

Evaluation of evidence

55. Evaluation must be carried out on each item of evidence collected in the course of an investigation as it is received.

56. The investigator must consider:

- the reliability of the source
- whether the evidence obtained is sensitive material
- the robustness of evidence
- its consistency with other evidence held within the case

57. The evaluation will inform the subsequent steps to take in the investigation and identify potential risk, for example:

- further evidence is required to support the investigation, identifying the source and how it will be obtained

- the evidence held is sufficient to proceed to an interview under caution
- the evidence obtained suggests a fraud penalty is not likely to be achievable
- identify potentially high-profile cases
- identify if a Secretary of State Certificate is required as case likely to be time-barred.

58. All evidence provided by the claimant must be examined for any signs of manipulation. Some types of evidence can be easily manipulated by claimants for example; on line bank statements.

59. If evidence has been received and there is reason to believe it has been manipulated or falsified the investigator must detail on Fraud Referral and Intervention Management System (FRAIMS) why they believe the evidence has been manipulated or falsified.

60. They must approach the Criminal Intelligence Officer to request the use of Social Security Fraud Act (SSFA) powers to obtain the information directly from the information provider. For more information, see [Request for Intelligence Gathering](#).

03 Obtaining Evidence Statements

Exhibits/productions

1. In England and Wales (E&W) the items or documents relied upon as prosecution evidence must be exhibited to a witness statement by the person who tenders that item or document as evidence.

2. Each exhibit should have an exhibit label attached and each exhibit label should be marked with an exhibit number. The format of the exhibit number should consist of:

- the witness' initials
- the date and
- a sequential number.

3. For example, if a witness Alexandra Brown made reference to forms ES24JP and JSA1 dated 1.1.2009 and JSA2 dated 4.7.2009 in that order in her statement and made reference to no other exhibits they would be produced as exhibits as:

“I wish to produce the following exhibits:

Form ES24JP dated 01/01/2009 as exhibit AB1

Form JSA1 dated 01/01/2009 as exhibit AB2

Form JSA2 dated 04/07/2009 as exhibit AB3”

4. In large-scale fraud cases it is sometimes appropriate to use a prefix other than an officer's initials. The prefix should be unique and could for example be the first three letters of the operational file name.

5. Important things to remember are:

- once an exhibit has been produced by a witness, a second or subsequent witness does not produce it, even though it is referred to in his/her statement. A second or subsequent witness will only produce documents as exhibits, which have not already been referred to and produced
- if a second or subsequent witness refers to a document already produced as an exhibit by a preceding witness, he must still sign the exhibit label. Hence, each witness must sign the exhibit label of any document to which they refer in their statement
- whilst exhibit numbers should not be altered, if duplicated they should be re-produced using a unique number and a further witness statement made producing the new exhibit number.

6. At the conclusion of a statement a witness should produce any exhibits not already produced by a previous witness in the order to which they are referred in the body of the statement.

7. Where the witness makes reference to documents created in the course of business and they were not the maker of that document or record, the statement should contain a paragraph in accordance with [Section 117 of the Criminal Justice Act 2003](#), this is to enable it to be admitted as hearsay evidence.

8. In Scotland, procedures are different, documents produced as productions can be certified under section 279A of the Criminal Procedures (Scotland) Act (CP(S)A)1995, however, these certificates are prepared by the Central Prosecution Team (CPT), and submitted with the report to the Procurator Fiscal (PF).

9. All early drafts of witness statements must be retained on file in accordance with Criminal Procedures and Investigation Act (CPIA) 1996, Sections. 23 (c) & (d) and paragraph 5.4 CPIA Code Of Practice (COP) (in E&W). This practice should also be carried out in Scotland.

Section 117 of the Criminal Justice Act 2003

10. Statements contained in documents admissible under section 117 of the Criminal Justice Act (CJA) 2003 apply in England and Wales only

11. Section 117 of CJA 2003 provides that a statement contained in a document is admissible as evidence of any matter stated in if:

- oral evidence given in the proceedings would be admissible as evidence of that matter
- the document or the part containing the statement was created or received by a person in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office
- the person who supplied the information contained in the statement (the relevant person) had or may reasonably be supposed to have had personal knowledge of the matters dealt with, and
- each person (if any) through whom the information was supplied from the relevant person to the person creating or receiving the information also received the information in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office.

12. Documents admissible under these provisions will include wage records from employers.

13. In the case of statements prepared for the purposes of pending or contemplated criminal proceedings, or for a criminal investigation, one of the five conditions mentioned in section 116(2) of the CJA 2003 must also be satisfied or the relevant person cannot reasonably be expected to have any recollection of the matters dealt with in the statement having regard to the length of time since they supplied the information.

14. The conditions under section 116(2) of the CJA 2003 are that:

- the relevant person is dead
- the relevant person is unfit to be a witness because of his bodily or mental condition
- the relevant person is outside the United Kingdom and it is not reasonably practicable to secure his attendance
- the relevant person cannot be found although such steps as it is reasonably practicable to take to find them have been taken
- through fear the relevant person does not give oral evidence in the proceedings, either at all or in connection with the subject matter of the statement, and the court gives leave for the statement to be given in evidence.

15. Documents where these additional requirements must be met will include statements of fraud investigators.

Bank or building society statements and exhibiting the Schedule of Assets - England and Wales only

16. A bank/building society statement is a document created or received in the course of a trade, business or profession. A requirement for a statement to be admissible, is that the

person who supplied the information contained in the statement had, or may reasonably be supposed to have, personal knowledge of the matters dealt with.

17. The subject's acceptance of the accuracy of documents shown at Interview Under Caution (IUC) does not allow for an investigator to formally exhibit the bank/building society documents under the cover of a section 9 Criminal Justice Act (CJA) 1967 statement, as the investigator will not have personal knowledge of the content within that statement.

18. The investigator, as part of their normal preparation for the IUC, should go through the statements obtained and summarise in a document the information held in the account(s) on a daily/weekly basis, detailing on a weekly basis throughout the alleged overpayment period, the amount of capital held at each date. Whether completed clerically or electronically, this is called a 'Schedule of Assets'. This Schedule of Assets can be referred to the Decision Making Unit (DMU), rather than providing all applicable statements.

19. The investigator must prepare a section 9 Criminal Justice Act (CJA) 1967 statement formally producing the Schedule of Assets as an exhibit.

20. This satisfies the legal requirements for the exhibitor to have personal knowledge of a document's content and to exhibit the Schedule of Assets produced in their witness statement.

21. If the defence requests sight of the bank/building society statements on which the schedule is based, these should be made available and served. If the bank/building society statements are required to be formally produced in court, such as in the event of a not guilty plea or the Crown Prosecution Service (CPS) request it, then a witness statement will have to be provided by the relevant bank/building society.

22. If the bank/building society declines to provide a statement then action as in Fraud Guide [08 Witness Statements](#) should be followed.

23. In cases of a more complex nature, where the analyst has completed the Schedule of Assets, the analyst will be responsible for exhibiting the document.

How to complete the Schedule of Assets

Step	Action
1.	Select and open the appropriate schedule for your case: <ul style="list-style-type: none">• up to 5 accounts (link is external)• up to 10 accounts (link is external)• up to 15 accounts (link is external).
2.	The dates for the subsequent paydays will then automatically populate down the schedule and to the other sheets, for example, [Ac 2], [Ac 3] etcetera. If you have a change of payday during the period you are scheduling, scroll down the schedule to the appropriate week and change the payday date to the correct one. The Schedule of Assets will automatically adjust the rest of the dates.
3.	Input the following information: <ul style="list-style-type: none">• bank/building society name, for example, HSBC

	<ul style="list-style-type: none"> • account number, for example, 12345678 • account name, for example, ISA, Bond, Current • account holder, for example, J Bloggs.
4.	Input the balance for the week as it is on the payday you are inputting it for, irrespective of the fluctuations within the benefit week this will then auto-populate down the Schedule of Assets.
5.	When the balance changes, update the appropriate cell for that payday. This will auto-populate the figure down the Schedule of Assets.
6.	<p>Select the next worksheet, for example, 'Ac 2' and repeat steps 3 and 4.</p> <p>On completion of inputting details for each account, select the worksheet entitled 'Schedule of Assets'. This will be populated as a full schedule of all the accounts input, totalling the balance for each benefit week.</p>
7.	<p>Document must be saved as:</p> <p>Reference number - Document description – Claimant's full name.xls</p> <p>For example:</p> <ul style="list-style-type: none"> • TR1 - Schedule of Assets - John Gore.xls <p>This is the required naming convention for the Crown Prosecution Service (CPS) and Decision Makers (DMs).</p>

Schedule of Assets and Decision Making Units

24. The Schedule of Assets primary function is as an exhibit for prosecution cases.

25. If you have prepared a Schedule of Assets prior to the Interview Under Caution (IUC), include it in your submission to the Decision Making Unit (DMU) **in conjunction** with the bank/building society statements. This will aid the DMU in making the decision on a case.

26. If you have any queries with regard to completing the Schedule of Assets, contact:

[Redacted]

[Redacted]

Witness statements

27. When taking a witness statement, investigators should explain to the witness that they may be asked or required to give their evidence in court. Investigators should not include anything in the witness statement, which gives the impression that the witness is unwilling or reluctant to attend court.

28. If the witness is unwilling or reluctant to attend court consider whether someone else can give the evidence in their place.

Benefit system statements

29. These are statements from Decision Makers who make the decision on the recoverability of benefit and/or calculate the overpayment of benefit. These statements allow the exhibit of the overpayment decision letter.

30. For a benefit system statement, the Department for Work and Pensions (DWP) witness would not have made all the entries in the claim forms or witnessed them being made. Nor would they have processed every benefit payment, claim form and review claim forms made by the claimant.

31. This witness will give evidence of other officers' actions on the claim and will have little first hand knowledge of these transactions.

32. This also applies to system statements and production of other data such as Income Support Computer System (ISCS) printed reports.

33. If appropriate a section 117 paragraph should be included in the statement (England and Wales only).

34. In cases where the total overpayment of all benefits, including Housing Benefit and Council Tax benefit (prior to 1 April 2013), is less than £35,000 investigators should include this information within their statement.

35. For overpayments in excess of £35,000, a nominated officer will exhibit these documents.

36. For more information, see [Nominated Decision Maker Statements](#).

Exhibiting official documents in England and Wales

37. An official witness can give evidence on all the department's claims on behalf of the department/authority providing that a paragraph in accordance with section 117 of Criminal Justice Act (CJA) 2003 is included in their witness statement. This paragraph must be on the following lines:

"The information contained within this statement has been obtained from records compiled by officers/employees of the Department for Work and Pensions, in the course of their duties, from information supplied directly or indirectly by persons who had personal knowledge of the matters dealt with therein. All reasonable steps have been taken to identify the persons who supplied the information but they either cannot be found or cannot be reasonably expected to have any recollection of the matters dealt with in that information."

Production of official documents in Scotland

38. Section 279A of the Criminal Procedure (Scotland) Act (CP(S)A) 1995 allows official documents, such as letters, minutes, or other official document issued from the office of or in the custody of the Department, to be certified by an authorised person. Once certified under this section a copy document is treated as equivalent to the original.

39. When produced in court it is prima facie evidence of the matters contained within it without being spoken to by a witness. Documents which may be admitted under this provision include records of the Secretary of State.

40. Schedule 8 to the CP(S)A allows business documents to be produced without being spoken to by a witness. The document must have been created or received in the course of, or for the purposes of, a business or undertaking, such as a local authority or government

department, or in pursuance of the functions of the holder of a paid or unpaid office. The document must have been kept by a business or undertaking or by or on behalf of the holder of such an office.

41. The statement in the document must also have been made on the basis of information supplied by a person, whether or not the maker of the statement, who had, or may reasonably be supposed to have had, personal knowledge of the matters dealt within it. The provision will not apply to information supplied by a person who was not acting in such a capacity, for example, not in the course of a business or undertaking or for the holder of an unpaid office.

42. Documents which may be admitted under the provision of Schedule 8 include wage records from employers.

Employer's statement

43. A statement from an employer may be required to include the following:

- personal details held in respect of the claimant, for example, full name, address, date of birth, NI No, etcetera
- period of employment
- a know and recognise statement and
- Section 117 wording as appropriate (E&W only).

Interviewing officer's statement

44. An interviewing officer's statement is required in all cases.

45. In Scotland, the statement should include details of all documents shown to the accused at the interview.

46. Investigators must ensure that statements following an interview within a police station show the place, date and times of the interview and all those present. The master audiotape/Compact Disc (CD) and any documents shown at the interview must be produced as exhibits / productions in Scotland.

47. Following the Interview Under Caution (IUC) recording being transcribed, the subsequent transcript should also be produced as an exhibit/production.

Other officers present at interview

48. A statement should be obtained from any officer, Jobcentre Plus, Local Authority, police, etcetera, who was present at the IUC as a witness. This statement should record that they were present, that they have listened to the recording and read the transcript and that these are accurate.

Housing Benefit and Council Tax benefits (prior to 1 April 2013)

49. A statement should still be obtained detailing the overpayment as in the statement on benefit entitlement, even if the overpayment is not a significant amount or if there are no documents available

04 Third party information

Third party information

1. The Criminal Procedures and Investigation Act (CPIA) Code Of Practice (COP) makes it clear that to establish the facts about an offence you can question any person, whether suspected or not, who you think might have useful information. If a person, including a third party, has useful information you should ask for it.

2. Although CPIA does not apply in Scotland, the guidance should be followed as good practice.

3. Remember, when approaching a third party:

- you are only investigating a suspicion and must not accuse the suspect unless you have information suggesting that the third party is directly involved and may have committed an offence
 - the outcome of your enquiry may establish the suspect's innocence
 - investigators must not mention that the claimant is in receipt of benefit. If the investigator is questioned as to who they are and whom they work for, he/she must explain that they work for the Department for Work and Pensions (DWP)
 - not to reveal the source of the suspicion
 - you could be approaching someone involved with the suspect or in the fraud
4. Article 8 of the European Convention on Human Rights deals with the right to respect for private and family life.

“A public authority shall not interfere with this right unless it is necessary and in the interests of national security, public safety or the economic well being of the country, or for the prevention of disorder or crime.”

5. If DWP are to interfere with this Convention right it must be proven that all other avenues to obtain the evidence have been explored. However, in a case, which consists of various circumstantial evidence, it may only be possible to bolster the evidence to the criminal standard by providing evidence from third parties. Additional justification may be on the grounds that it would prevent or detect a crime.

How to approach a third party

6. Whenever possible the initial approach to a third party must be by visit. Normally the visit will be un-notified but the visit could be notified if the investigator feels that this would not jeopardise the investigation.

7. If the investigator believes that the third party may also be implicated in the commission of the offence it will be necessary to interview the third party under caution. In these situations an Interview Under Caution (IUC) appointment letter must be issued.

8. If it is not possible to visit the third party an appointment should be arranged by using a [CI18 \(link is external\)](#)/[CI18W \(link is external\)](#) letter. It is important that no information should be given to the witness about the claimant's benefit claim as outlined previously.

9. When preparing and conducting an interview with a third party the same checks and other action necessary for claimant interviews, must be carried out in order to protect you from personal violence or abuse.

10. For information on the checks and other action to take, see Health and Safety - [Activities outside the office](#).

Approaching a third party in a Living Together As a Married Couple Investigation

11. For information on good practices when approaching a third party in Living Together As a Married Couple investigations see the [Living Together Good Practice Guide \(link is external\)](#). This guide also includes a letter in Annex 1 to use when a claimant complains that a fraud investigator has **[Redacted]**.

05 Obtaining evidence from Her Majesty's Revenue and Customs and Child Maintenance Group

Obtaining evidence from Her Majesty's Revenue and Customs

Initial Enquiries to HMRC

For further information regarding the action taken by the Compliance admin officer and authorising officer see [AO10/EQ1](#), [AO14](#) and [MF67](#) ([link is external](#)).

Completion of the MF67 and MF67A forms

For further information regarding the action taken by the Compliance admin officer and authorising officer see [AO10/EQ1](#), [AO14](#) and [MF67](#).

Obtaining Information from the Child Maintenance Group

Making enquiries to CMG

Counter Fraud and Compliance Directorate (CFCD) and the Child Maintenance Group (CMG) have a legal gateway to share information with each other under the Child Payments and Other Payments Act 2008.

Any requests for details of maintenance payments must be made on the [CSA \(Info request\)](#) ([link is external](#)) and restricted to the period of the potential benefit fraud allegation. Each section of the form must be completed.

For Example: [Redacted]

All requests for information must be sent to the CMG Financial Investigations Unit inbox on the CSA (Info request) who will action the request.

The subject title of the email must read **JCP request for info**.

A response will be issued by email to the CFCD investigator within 14 working days and if there is delay obtaining information, for example a clerical case – the CMG Financial Investigations Unit will advise CFCD of the delay by email.

06 Obtaining vehicle keeper details

Enquiries regarding vehicle keeper details

1. Information regarding vehicle keeper/ownership can be requested from the Driver and Vehicle Licensing Agency (DVLA) under Data Protection Act 2018 paragraph 2(1) of Schedule 2.

2. DVLA are under no obligation to provide this information, and therefore to justify disclosure about vehicle keeper/ownership, the DVLA will need to be satisfied that the information is requested for the purpose of:

- the prevention or detection of crime
- the apprehension or prosecution of offenders, or
- the assessment or collection of any tax, including Council Tax, or duty or of any imposition of a similar nature, and
- refusal to disclose would be likely to prejudice the purpose of the request.

3. **[Redacted]**

[Redacted]

The decision making rationale applied by the Team Leader / Higher Investigations Officer should be properly recorded on FRAIMS. This should not be considered a generic activity as each consideration will be different

Vehicle keeper request via the National Anti Fraud Network

4. Where vehicle keeper details are required, the request is made and information obtained electronically via the National Anti Fraud Network (NAFN) website. To make an enquiry the investigator must have already registered their details with NAFN.

5. Details of the application process, including awaiting the response from Driver Vehicle Licensing Agency (DVLA), must be recorded on FRAIMS, see [FRAIMS Guidance – Benefit Papers, DVLA and Certificate Requests](#).

Investigator actions

6. [Redacted]

7. The completed and authorised form will be sent electronically by overnight batch run with other enquiries to DVLA, requests made after 16:30 will not be sent until the following day, and the requested information will be returned to NAFN on the morning of the next working day.

8. [Redacted] It is important therefore that the request for information is completed fully, particularly the Nature of Enquiry section.

9. Details of the considerations made by DVLA and NAFN when dealing with a request for vehicle details is included in the [Redacted]

10. Any concerns relating to the service provided or reasons for rejection given by NAFN should be referred to the Counter Fraud Compliance Directorate (CFCD) Single Point of Contact (SPOC) who will liaise with the NAFN SPOC.

11. NAFN officers will review the enquiry and an e mail will be sent to the investigator notifying the outcome. The system generated e-mail will advise whether the;

- enquiry is approved and [Redacted]
 - information requested is not available on line and [Redacted]
 - keeper details cannot be supplied with the reason(s) why
12. [Redacted] for more information on this process, see [Redacted].

Team Leader / Higher Investigations Leader actions

13. The Team Leader (TL) / Higher Investigations Leader (HIL) will have view only access to all requests and results for their team, see NAFN – TFI Viewing Results [Redacted].

14. Team Leaders must conduct a 10% check to ensure that the action requested by the investigator has been proportionate, relevant, and properly constituted. This check is part of the quarterly [Quality Assurance Framework checks](#) that covers evidence gathering.

Exhibiting responses from the NAFN - England and Wales only

15. Where there is a requirement to exhibit details obtained, [Redacted].

16. [Redacted] The investigator must complete the following details on the drafted forms:

[MG11 – section 9 statement \(link is external\)](#) (Drafted)

- [Redacted]
- [MG17 – Documentary exhibit \(link is external\)](#) (Drafted)
- [Redacted]

17. On completion, the documents must be saved in a secure folder.

18. The forms must then be e-mailed to [Redacted]

with the subject header 'Official - Sensitive – MG11 request [NAFN officer's name]', for example, Official - Sensitive – MG11 [Redacted]

19. On receipt, NAFN will check the details and, where appropriate, add an electronic signature, date the document and convert in to a Portable Document Format (PDF). NAFN will return both documents via the secure e-mail network within five working days. Do not send any duplicate requests or follow up within this period.

07 Obtaining certificates

Information available

This section provides guidance on how to obtain certificates of:

- birth
- marriage
- civil partnerships
- death.

Birth certificates

A copy of a full extract birth certificate will confirm the:

- name and surname
- sex
- date of birth
- exact place of birth
- father's name, if given at time of registration, place of birth and occupation
- mother's name, place of birth, maiden surname and, after 1984, occupation
- name of the registration district and sub-district where the birth took place.

Note: Registrations made before 1969 do not include details of the parents' place of birth or mother's occupation. Registrations made after 1969 include details of the mother's usual address at the date of the child's birth.

The GRO office do put the father on the birth certificate if he is not present at registration of the birth if the following criteria are met:

- if he is married to the child's mother
- if the mother produces a court order to confirm father's details
- if the mother produces a statutory declaration completed by the father to confirm he is the father
- box 10 on the birth certificate is always the mother's address at the date of birth of the child
- box 13 on the birth certificate is always the address of the informant at the date of registration of the birth:
 - if the mother is the informant, the address shown is the mother's address.
 - if the father is the informant and registers the birth then the address would be the father's address at the date of registration. If the father is not the informant then the father's address never appears on the birth certificate.

Marriage certificates or civil partnership certificates

A copy of the marriage or civil partnership certificate confirms the:

- maiden name
- occupation of both parties
- age of both parties
- address of both parties when the licence application was made
- marital or civil partnership status of both parties at the time of marriage or formation of civil partnership.

[Redacted]

If legal advice is requested these actions must be recorded on Fraud Referral and Intervention Management System (FRAIMS), see: [Obtaining Legal Advice](#).

Death certificates

A copy death certificate confirms the:

- date of death
- place of death
- cause of death
- name and address of the informant, and
- their relationship to the deceased.

Obtaining access to General Register Office In England and Wales

In order for investigators to obtain certificates applicable to a case, an account is required on the [General Register Office \(GRO\) website \(link is external\)](#). Team Leaders (TL) are responsible for authorising Counter Fraud and Compliance Directorate (CFCD) Operational

Control Centre (OCC) to arrange access to the [GRO website \(link is external\)](#). Requests must be made by email to the inbox **[Redacted]** providing:

- the [GRO Access Form](#) is completed
- authorising officer details (HEO) (name and phone number)
- details of officer requiring access (name, email address, courier address and CFCD area).

When access to the [GRO website \(link is external\)](#) is set up, the OCC Admin team email the Investigator providing individual [GRO website \(link is external\)](#) log in details and registration process instructions they must undertake before using the [GRO website \(link is external\)](#).

The certificates (such as Birth or Marriage) obtained may be used as evidence, admissible within the Investigator's MG11 in the first instance, as they are in the public domain. The statement must contain details of the process followed in order to obtain them. ([E&W MG11](#)) Only if the defence challenges their validity would a statement be required from the General Register office (GRO). If the Registrar confirms the details of a certificate in writing (rather than provide the certificate), then this requires a MG11 statement from the Registrar because the letter (unlike the certificate) is not in the public domain.

Account maintenance

It is the responsibility of the account holder to make sure that the personal details of their GRO on line account are correct.

If you move office, you must make sure your address details are changed to make sure certificates are delivered your correct location.

If you move to a job in which you do not require access to the [GRO website \(link is external\)](#), email **[Redacted]** to have your account deleted.

Accounts left inactive for long periods of time may be deleted without prior notice.

Counter Fraud and Compliance Directorate (CFCD) business has a responsibility to provide assurance that costs and budgets in respect of GRO accounts are accurate and that details of users are managed accordingly ([CFCD Assurance Plan 2015-16 \(link is external\)](#)).

Birth, Death and Civil Partnerships certificates

Within the last six months

If a certificate is required for a birth, death or civil partnership that occurred within the past six months, Investigators must contact the register office where the event was registered. This is because the central records held by the GRO may not have been updated.

Over six months ago

To obtain certificates for a birth, death or civil partnership that occurred more than six months ago, GRO account holders must apply online via the [General Register Office \(GRO\) \(link is external\)](#) website.

On receipt of a completed application the GRO will supply the certificate.

Marriage Certificates

Within the last 18 months

If a certificate is required for a marriage that occurred within the past 18 months, Investigators must contact the register office, church or other religious building where the details were recorded because the central records held by the GRO may not have been updated.

More than 18 months ago

To obtain a certificate for a marriage that occurred more than 18 months ago, the GRO account holders must apply online via the [General Register Office \(GRO\) \(link is external\)](#) website.

On receipt of a completed application the GRO will supply the certificate.

In scotland

In Scotland only the certified certificate may be used in presentation to the Procurator Fiscal, and as such it does not require a PF11s to support it. [Obtaining proof in Scotland](#) refers.

Obtaining approval for the purchase of certificates

Before applying for certificates, approval from the Team Leader must be obtained, see: [Obtaining TL or HIL approval to purchase certificates](#).

Requesting certificates in England and Wales

When the Investigations Team Leader or Criminal Higher Investigations Leader (Criminal HIL) has approved the purchase of the certificate on Fraud Referral and Intervention Management System (FRAIMS), the certificates will be ordered by a General Register Office (GRO) account holder.

Note: If the investigator is not a GRO account holder, they will email the details of the certificates to be ordered to the GRO account holder. GRO account holders can request certificates on behalf of investigators; however it is recommended that investigators follow procedure to set up their own GRO account.

When the certificates are obtained, or a no trace notification is received, the GRO account holder's must pass the certificates to the investigator. If a no trace notification is received the GRO will email the details to the GRO Account Holder.

[Redacted]

via email, to check if the certificates have been received. Actions must be recorded on FRAIMS.

If the ordered certificates have not been received by **[Redacted]** the requesting investigator should obtain further approval from LSTL or HIL to order duplicate certificates. Details must be recorded on FRAIMS.

The Investigation Officer (LSIO) or Criminal Investigator (CI) is responsible for recording the request to GRO, including the receipt of the certificate from the GRO or General Register Office for Scotland, on FRAIMS even when they are not the GRO account holder.

Details of the authorisation and application process, including the receipt of the certificate from the GRO, must be recorded on FRAIMS, see [Benefit Papers, DVLA and Certificate Requests](#)

Negative Responses from GRO

If GRO can find no trace of the birth, marriage, civil partnership or death a negative response will be provided. This will be emailed to the requestor's registered email address.

Charges for certificates

The charge for traced certificates is as follows:

[Redacted]

Register Office methodology and charges

Charges and methodology of applications for purchases made at local register offices may vary. This is because the Local Authority (LA) within which it is located governs each local register office.

Exhibiting Certificates

In accordance with section 118 of the Criminal Justice Act 2003 which states that public documents are admissible as evidence of the facts stated in them, it is not necessary to obtain a witness statement from an officer of the GRO. These must be exhibited by the investigator and be included in their statement

Obtaining proof in Scotland

The process for obtaining details of a birth, marriage, civil partnership or death in Scotland differs slightly from those available in England and Wales.

Use of the verification service is not appropriate in Scotland because there is a requirement to obtain a full certificate in all cases.

All certificates from National Records Scotland (NRS) should now be ordered through their Scotlands People website (link is external).

Any queries with regard to the above can be directed to the **[Redacted]**

To pay for certificates obtained locally, the Government Procurement Card (GPC) must be used. Details of the application process, including awaiting the response from GRO, must be recorded on Fraud Referrals and Intervention Management System (FRAIMS), see Benefit Papers, DVLA and Certificate Requests.

Contacting the General Register Office (clerically)

It may be necessary to contact the [General Register Office \(GRO\) \(link is external\)](#) if a claimant cannot obtain a copy of their birth certificate.

A [BF53 \(link is external\)](#) can be sent to the GRO if the birth happened:

- at least 12 months ago in England and Wales
- at least 18 months ago in Scotland
- at least 3 weeks ago in Northern Ireland.

If the birth happened in Scotland in 1996, when the birth rate was exceptionally high, a second search can be sent. This request should be marked **Priority second search** and include details of:

- where the birth took place, and
- the usual address of the child's parents in 1996.

Further information

If the GRO cannot confirm the date of birth, further information can be obtained for the [General Register Office \(GRO\) \(link is external\)](#) website using MF5.

Useful addresses

General Register Office

England and Wales

[Redacted]

Northern Ireland

[Redacted]

Scotland

[Redacted]

Isle of Man

[Redacted]

Central Statistic Office

[Redacted]

08 Forensic examination

Handling items that require forensic examination

For the Department for Work and Pensions (DWP), forensic services are provided by **[Redacted]**

The types of services available are:

- handwriting and document examination from **[Redacted]**
- fingerprinting from **[Redacted]**

- mobile phone examination from [Redacted]
- computer analysis from [Redacted]

You must handle all cases with care, do not write anything or pin anything to them. You must use gloves if documents or seized items are to be examined for fingerprints. If a document is torn, you must not attempt to re-assemble it.

Team Leaders (TLs) or Higher Investigations Leaders (HILs) must ensure that anyone who may encounter such documents is aware of the need to safeguard evidence. This may include:

- post opening staff
- reception staff
- finance staff
- Post Office staff.

For document examination, investigators must ensure that documents reach [Redacted]

Bodily samples

DWP must not attempt to obtain any bodily samples.

Handwriting and document examination – [Redacted]

Document examination includes the following:

[Redacted]

Note: This list is not exhaustive.

A person familiar with the writing in question may identify handwriting. However, only a handwriting expert can undertake a comparison of the disputed writing with specimen writing proved known or admitted to have been written by the suspect. Their findings will be accepted or presented to courts as **Expert Testimony**.

Forensic handwriting examination must be considered where there is disputed documentary evidence that is required to prove an offence. It may also be considered in order to identify who committed a benefit offence. Investigators must bear in mind that such analysis is not always conclusive of authorship. Where authorship is established, this in itself does not necessarily establish that an offence has been committed.

On request, the investigator must obtain specimen writing **Controlled Specimens** from each possible suspect on the KFS5 (link is external) as follows:

[Redacted]

As the specimen, writing could incriminate the suspect they are not obliged to provide it. Where there are grounds to suspect that the suspect has committed an offence, ask for the specimen writing under caution.

In addition, the investigator must provide examples of the suspect's writing that is representative of the writer's natural styles. These may be documents or correspondence from the claim or documents seized or obtained during the course of an investigation.

Submission for handwriting and document examination

- As indented writing requires specialist packing, before submitting documents for ESDA testing, contact [Redacted] for advice.

Key Forensic Services timescales

- KFS provides a 5, 10 or 20 day reply service with timings commencing from the day after receipt at [Redacted]

All requests will be completed within 20 days, unless a court date within that time scale is detailed on the KFS 1QD

It must be noted that the shorter time scales would result in higher costs

Fingerprinting - Key Forensic Services in partnership with East Midlands Special Operations Unit

The provision of fingerprint examination is broken down into two phases:

- the first involves the examination of the exhibits to identify the existence of fingerprints
- the second phase involves the comparison of those fingerprints with records held by the police.

In Scotland, fingerprint examination is carried out on the instruction of the Procurator Fiscal (PF).

Take caution when handling items that have been treated with Ninhydrin solution, a chemical used by the police in fingerprinting techniques on evidence exhibits. For more information, see [Items treated with Ninhydrin](#).

Fingerprint identification.

The identification of a suspect's fingerprints on exhibits does not necessarily prove that the suspect is guilty of an offence. It provides an expert opinion on the identity of that suspect handling the exhibits.

Fingerprint evidence may link a suspect with an item, for example, an irregularly cashed cheque. It is essential that the material containing the fingerprint is protected from contamination. The material must be isolated at the earliest opportunity, handled as little as possible and placed in a tamperproof evidence bag. Do not give the suspect opportunity to touch the material.

The investigator has no authority to obtain fingerprints from any person under investigation or to directly assist the police in obtaining them.

If a suspect does not have a criminal record and has not been arrested and charged by the police, nor is likely to be for the offence currently under investigation, there is no benefit to a submission for fingerprinting examination. This is because there will be nothing to compare it against.

Fingerprint comparison.

The police following criminal convictions retain fingerprints. They are also obtained after arrest and charging of suspects by the police prior to the defendant's appearance at court.

If an investigation leads to the arrest and charge of suspects without previous convictions by the police and the investigator requires fingerprint analysis it will be necessary for investigators to obtain hard copies of the fingerprints taken at the time of arrest or charge from the police. These are required for comparison with fingerprints found on exhibits. Once received from the police, the investigator must forward them to Key Forensic Services (KFS) with the other exhibits.

Most police stations in England and Wales now have access to Livescan, a system that can take the suspect's fingerprints electronically and store them on the database at New Scotland Yard. Advise KFS if this is the case for them to recover the charged set of fingerprints accordingly.

However, within the Metropolitan Police area, a unique summons number must be obtained from the Police National Computer (PNC) unit at New Scotland Yard. Advice must always be sought from the Custody Sergeant.

A significant number of police stations in Scotland also have access to Livescan. However, in Scotland, the fingerprints are stored electronically at the Information Services – Criminal Justice, who are part of the Scottish Police Services Authority (SPSA). KFS must be advised if this is the case for them to recover the charged set of fingerprints accordingly.

If a suspect without any previous convictions has been arrested and charged with offences that are unrelated to the investigation and:

- has not yet been convicted, and
- has not been arrested and charged as a result of your investigation.

It will be necessary for the investigator to provide the following information in respect of the offences awaiting conviction. If a comparison of the fingerprints obtained is required:

- the police officer's name/telephone number and Police Force
- the arrest summons number
- names and dates of birth of the suspects and Criminal Records Office (CRO) number, if known.

This information must be included with the submission to KFS. The information will be forwarded to EMSOU and will allow them to obtain access to the fingerprints from the police officer or force that holds the fingerprints pending prosecution. The fingerprints obtained can then be submitted with the exhibits for comparison.

Contacts at East Midlands Special Operations Unit (EMSOU)

<p>[Redacted]</p> <ul style="list-style-type: none"> • [Redacted]
<p>[Redacted]</p> <ul style="list-style-type: none"> • [Redacted]
<p>[Redacted]</p> <ul style="list-style-type: none"> • [Redacted]
<p>[Redacted]</p> <ul style="list-style-type: none"> • [Redacted]
<p>[Redacted]</p> <ul style="list-style-type: none"> • [Redacted]
<p>[Redacted]</p> <ul style="list-style-type: none"> • [Redacted]

Investigators must be aware that under Section 61 of Police And Criminal Evidence (PACE) act 1984, or Section 18 of Criminal Procedure (Scotland) Act (CP(S)A) 1995, the police have

the authority to take the fingerprints of a person or persons detained at a police station without that person's consent. A Police Superintendent, Inspector, or above in Scotland, may give authority for fingerprints to be taken if they have reasonable grounds for suspecting the person is involved in criminal offences and for believing that the person's fingerprints will tend to confirm, indicate or disprove their involvement.

If suspects are not to be charged at the time of arrest and do not have previous convictions or have been charged and are awaiting prosecution, the police must be encouraged to ask for fingerprints to be provided voluntarily. However, if refused, the police must be asked to obtain fingerprints with the authority of a Superintendent, Inspector, or above in Scotland.

The reason why that authority is sought, such as, to enable fingerprint comparison to occur, must be explained to assist in securing the agreement of the Superintendent, Inspector, or above in Scotland. The fingerprints obtained can then be submitted with the exhibits or productions for comparison.

Investigators must note that any successful comparisons obtained from this method are for identification purposes only. When the suspect is arrested and charged for the offences under investigation it will be necessary for the fingerprints taken when charged to be used for evidential purposes and further comparisons obtained.

The Criminal Justice Act (CJA) 2003 and the Criminal Justice (Scotland) Act (CJ(S)A) 2003 allows the police to retain fingerprints even though the suspect may not have been charged or convicted. This brings the retention of fingerprints into line with the retention of Deoxyribonucleic Acid (DNA) samples.

Key Forensic Services timescales

It must be noted that only a 20 day service from date of receipt at Key Forensic Services (KFS) partner EMSOU is available. This service is based on an average case of 50 to 60 exhibits with two to three suspects. Cases with more than this number of exhibits or suspects will take longer.

It is important to select exhibits or productions that will provide the optimum result, for example, exhibits or productions that have had limited handling. Requirements must be discussed with KFS.

Mobile telephones and computers - CCL Forensics.

Digital devices

Digital devices include:

- mobile phones
- computers
- laptops
- tablets
- hard drives
- USB (Universal Serial Bus) drives
- Satellite navigation systems.

This list is not exhaustive

Where the police have seized digital media and or devices, they must be recorded in their search logs. The search logs and the items seized will be subsequently signed over to the Department for Work and Pensions (DWP), so that initial examination can be undertaken by Central Criminal Investigation Service (CCIS) Digital Forensic Officers (DFOs).

No action taken by investigators, or those acting on behalf of the department, should amend data held on a digital device which may subsequently be relied upon in court. Where a person finds it necessary to access original data held on a digital device, that person must be competent to do so and be able to provide evidence explaining the relevance and implications of their actions where required.

A record of all processes applied to computer-based electronic evidence must be created and retained, and made available to an independent third party to examine where required.

The officer in charge (OIC) of the investigation has overall responsibility for ensuring that the law and above principles are adhered to.

Mobile telephones and tablets

CCIS is able to interrogate mobile phones recovered from suspects who have been arrested by the police or during a search. **[Redacted]**

Mobile phones and tablets are able to store a large amount of information, such as:

- address books, lists of names and numbers
- call logs, dialled, missed, received
- Short Message Service (SMS) text messages
- e-mail messages
- web browser data
- media, images, video, audio
- location data
- deleted messages.

Note: This list is not exhaustive.

Retrievable information can either be stored on the SIM card, internal memory card or on the device itself.

Information retrieved by the DFO will be produced in a report on a DVD (Digital Versatile Disc) or USB drive format and **[Redacted]**. All mobile phones must be sealed in a tamperproof evidence bag on submission to the DFO. It must be noted that this information complements, but does not replace, itemised billing information, which, where available, can be obtained from the network supplier. **[Redacted]**

It is possible that a seized phone is Personal Identification Number (PIN) code protected, which prevents rapid access to data. To determine the PIN, the police officer who seized it must ask the suspect to provide the PIN or the unique swipe pattern. Locked phones will display a screen demanding a PIN number and will not allow any access, this must be noted on the submission form, and the phone turned off. If no PIN demand screen is displayed, the phone must be turned off immediately.

It is important that, to preserve the data, no keys on the phone are pressed apart from the on or off switch. At no time should the phone be interrogated without submission to a qualified forensic officer.

When acting in an advisory capacity on police searches, investigators must request that the police also seize the chargers and cables for the mobile phones and tablets.

Computers (including laptops, hard drives and USB drives)

Prior to arrest, the office in charge (OIC) must obtain approval from their Team Leader (TL) or Higher Investigation Leader (HIL) that seizure of digital media devices is necessary and proportionate.

Computers seized by the police can be forensically triaged and examined by CCIS DFOs and **[Redacted]** to identify evidence.

Where evidence exists that indicates that a computer may have been used in criminal activity against the Department for Work and Pensions (DWP), or Local Authority (LA), for example, to store or create documents to support a crime, they can be expertly examined by **[Redacted]** after being triaged by CCIS digital forensic hubs.

Evidence found on computers can be crucial to any investigation. However, it must be evidentially sound and collected intact. This requires the suspect device to be seized intact together with any other computer discs for example Compact Discs (CDs), DVDs and

peripherals such as hard drives or USB drives. Power leads, USB leads and chargers, cables and notebooks must also be seized with the device.

It is essential that the original data is not accessed in any way on the suspect device outside the CCIS digital forensic hub and laboratory, as this will alter vital information and settings and will render the evidence inadmissible in court.

Police search teams will follow their best practice for the seizure of digital media, which may vary from force to force. Police search teams must be requested to photograph devices in situ before seizure (photographic evidence of the device and peripherals/connections).

CCIS DFOs can be contacted prior to and during an arrest for advice on the seizure of devices if no police search team is present.

The following guidance must be followed by the police, when they recover computer equipment.

If the computer is on:

- move everyone away from the equipment
- where applicable, the police officer must unplug the modem lead from the Personal Computers (PC) or Ethernet port
- record what is on the screen, photograph if possible. If active, move mouse to stop screensaver
- do not move any USB drives attached to the device
- the police officer must unplug main leads from equipment, not from the wall socket
- label and if possible photograph all equipment
- record any unique identifiers
- attach signed exhibit label

[Redacted]

- if it is a laptop, the police officer must collect the power supply or charger
- if the PC is an Apple Mac, the police officer must recover the keyboard and mouse. For other makes, recovery should only be necessary if required for DNA or fingerprinting purposes.
- ask the user and or owner of the equipment if there are any passwords.

Do not:

- touch the keyboard in any way

[Redacted]

[Redacted]

- be tempted to have a **quick peek**. You will damage the evidential integrity of the data.

If the computer is off and is not active, follow the instructions above, but remember:

[Redacted]

[Redacted]

Ensure that computers recovered from arrested suspects by the police and are recorded as exhibits.

Criteria for forensic examination

Funding for forensic services is only available through a centralised budget. The decision to obtain forensic evidence must be discussed between the investigator and the Team Leader (TL) or Higher Investigations Leader (HIL), having examined the evidence obtained. Agreement from a prosecuting authority is not required.

TLs or HILs must balance the cost of the service against the value of the expected evidence to the investigation. Do not make a submission unless:

- there is a reasonable prospect of a positive opinion, and
 - the circumstances of the case suggest that prosecution action is warranted.
- In England and Wales, the Crown Prosecution Service (CPS) may request additional forensic evidence in cases submitted to them for consideration of prosecution. In these cases the submission for forensic services must be considered and submitted in the usual way as detailed in Submission process – Obtaining an estimate of the cost.
A copy of the correspondence from CPS must be attached to the submission.

This guidance must be read in conjunction with [FRAIMS guidance – Forensic Evidence](#).

Submission process

The investigator must complete the appropriate forms and refer them to the Team Leader (TL) or Higher Investigations Leader (HIL) by e-mail for consideration.

Key Forensic Services

Fingerprint examination – [Redacted]

Handwriting and Document Examination [Redacted]

Handwriting analysis

For handwriting analysis Counter Fraud and Compliance Operations must proceed with obtaining an estimate of the likely costs of the forensic examination.

To do this Counter Fraud and Compliance Operations need to send the items to KFS Ltd for them to examine and provide an estimate.

Obtaining an estimate of the cost

- The TL or HIL must ensure all the relevant forms have been completed before being e-mailed to: [Redacted]
The process to obtain TL or HIL approval is recorded in FRAIMS.

Fingerprint examination

For fingerprint examinations, Counter Fraud and Compliance Operations will estimate the cost by using the calculation provided below.

Cost of forensic examination

Not all forensic work is estimated free of charge as, in some cases, a significant amount of work is required at the referral stage to produce an accurate estimate.

Fingerprints - Key Forensic Services

- [Redacted]
Number of exhibits Estimated time taken
1 to 20 - 2 hours
21 to 50 - 4 hours
50+ - 8 hours
- [Redacted]
An estimate is required from Key Forensic Services (KFS) if the items then require to be chemically examined.

Questioned Documents

Estimates free of charge.

When KFS have completed their actions, the exhibits will be returned to the investigator with a delivery note. A copy of the delivery note will also be sent to Counter Fraud and Compliance Forensic Services to confirm completion of all action and to reconcile the invoice from KFS prior to payment.

Retain the FOR2 until KFS has completed their actions and returned the exhibits. Email the completed FOR2 to Counter Fraud and Compliance Forensic Services to confirm the work is complete.

When the TL or HIL receives the Counter Fraud and Compliance authorisation number the action must be recorded by creating an activity on FRAIMS.

Send the exhibits to the appropriate forensic service provider by the investigator. All items submitted for forensic examination must be accompanied by a signed exhibit label (EL1) and sent in tamperproof evidence bags. Failure to comply with this guidance will result in delays.

Details of the items submitted, the date and the location to which they have been sent must be recorded on the case on FRAIMS.

Submission to KFS must be delivered by recorded delivery or hand to:

- **[Redacted]**

Or

- **[Redacted]**

Or

- **[Redacted]**
- On receipt of hand delivered submissions(s) **[Redacted]**
Submissions must not be delivered to KFS by any other means as this could jeopardise continuity of evidence.

Estimates received

When Counter Fraud and Compliance Forensic Services receive the estimate from a forensic service provider, it will be forwarded to the Team Leader (TL) or Higher Investigations Leader (HIL). Upon receipt of the estimate the TL or HIL must consider the cost and if they wish to go ahead with the forensic work, complete the FOR1 and ensure that an officer with the appropriate delegated financial authority approves the form.

Enter the total cost per operation on the FOR1 to ensure compliance with DWP Delegated Financial Authority guidance. This must include previous approved estimated costs and actual cost per operation to date, inclusive of Value Added Tax (VAT).

Details of the Delegated Financial Authority limits can be found on the Financial Control Directorate, Delegated Purchasing Authority webpage.

- Forensic work must not commence until Counter Fraud and Compliance Forensic Services receive the FOR1. The completed form must be e-mailed to: **[Redacted]**

Fingerprint submissions

A three stage estimate process has been developed due to the complexities of fingerprint analysis:

- **Stage 1.** The investigator completes the FOR1 Business Case, with cost of first stage estimate based on number of exhibits including VAT. If approved by the TL or HIL, the FOR1 must be sent with a completed KFS1 and KFS2 to: **[Redacted]**
 - **Stage 2.** Following the chemical treatment process, a further estimate will be produced based on the number of marks to be photographed, this cannot be estimated until the chemical treatment has been completed.
 - **Stage 3.** If a full statement is required for court a further estimate will be provided, however most cases only require an abbreviated statement at no additional cost.
- A separate completed FOR1 is required for each stage of the estimate process for fingerprint submissions. The total amount of approved estimates, including VAT, and actual cost for that

operation to date must be added to the FOR1 at every stage and approved or rejected according to DWP Delegated Financial Authority levels.

When a match is found on the EMSOU identity database, to one of fingerprints previously unidentified on a submitted document, KFS will inform Counter Fraud and Compliance Forensic Services to seek authorisation for additional work, usually only one hour.

The TL or HIL involved in the case will be contacted to ask if they will require this information. If they do, a further completed FOR1 must be authorised and submitted to Counter Fraud and Compliance Forensic Services.

Cost is likely to exceed estimate

In any case where the forensic examination has commenced and the cost is approaching the estimated amount and likely to exceed, the forensic service provider will cease work and produce a report to Counter Fraud and Compliance Forensic Services and the requisitioning officer.

Additional details must be provided on the initial **FOR1** and submitted by the requisitioning officer to the authorising officer for approval to pay the new estimated amount, which must include all previous cumulative estimated and actual cost, including Value Added Tax (VAT), for that operation to date.

Digital media (mobile phones / computers / tablets / hard drives / USB drives / satellite navigation systems)

Serious and Organised Crime (SOC) have the capability to undertake initial forensic examination (triage) of seized digital media. Triage of seized devices will identify those devices which are of evidential or intelligence value and those which are not without prior submission to an external digital forensic services supplier.

Immediate digital forensic device imaging

- In exceptional circumstances, it may be required to send seized devices directly to **[Redacted]** for immediate forensic imaging. For example, on Access to Work investigations, we may need to return seized devices due to the vulnerability of the suspects/ seizure would disrupt a viable business. An image is a forensically sound copy of the digital material. Following TL or HIL approval and prior to arrest, the officer in charge must fully complete a [digital forensic triage submission document \(link is external\)](#) and email to their manager. The submission document includes a forensic strategy document which must be fully completed. The OIC must calculate an estimated forensic spend using Appendix 1.
- The TL or HIL must then forward to the appropriate Digital Forensic Analysis (DFA) approver. Provisionally approved [FES Digital Forensic Triage Submission \(link is external\)](#) documents must then be emailed to the DWP Counter Fraud and Compliance Digital Forensic Triage Requests inbox from the DFA approver with details of the planned arrest date. **[Redacted]**
- The Digital Forensics Manager will allocate the case to a Digital Forensic Officer (DFO). Where appropriate, the DFO will contact **[Redacted]** to advise of the planned arrest date and to co-ordinate the submission of urgent work to **[Redacted]**.

The DFO will then contact the OIC to discuss the arrangements for the devices to be delivered to the forensic hub.

Once all devices have been seized and received from the police, the OIC will update the digital forensic submission document detailing all the devices requiring urgent forensic imaging.

The OIC must then email the updated digital forensic submission document to the appropriate DFA approver with a completed FOR1 form.

- The DFA approver will send the approved FOR1 document and digital forensic submission document to: **[Redacted]**

On receipt of the forms detailing items for examination, Counter Fraud and Compliance Forensic Services will allocate a Counter Fraud and Compliance authorisation number and e-mail both the forms to the DWP Counter Fraud and Compliance Digital Forensic Triage Requests email inbox copying in the OIC and TL or HIL.

- The digital forensic manager will email the digital forensic submission document **[Redacted]** notifying that this requires urgent 24 or 48 hour turnaround time and forward the case to the previously allocated DFO.
- The DFO will liaise the OIC to arrange urgent delivery and forensic imaging, production of master and working copy/indexing of the device(s), and collection of the devices from **[Redacted]**.

The OIC will arrange return of the devices to the owners.

- The DFO will then liaise with the OIC and **[Redacted]** to arrange viewing of data, and production of reports/statements. The OIC must arrange for viewing within the 10 day turnaround time as this is the least cost. When viewing data, particular at **[Redacted]**
- the viewing must consider the material for evidence **and** disclosure at the same time. Where the role of the disclosure officer is separate to that of the investigator, they must both attend, if considered appropriate. Failure to do this risks having to perform a second viewing on the same material for disclosure purposes, adding extra unnecessary costs and potential delay in progressing a case.
- Cases submitted to **[Redacted]**
- for analysis will require the completion of the FOR2 emailed to **[Redacted]**inbox upon completion of the work.

Digital forensic triage submission process

Following TL or HIL approval and prior to arrest, the officer in charge must fully complete a digital [forensic triage submission document \(link is external\)](#) and email to their manager. The submission document includes a forensic strategy document which must be fully completed. The TL or HIL must then email the approved commission document to: **DWP Counter Fraud and Compliance Digital Triage Requests**

Digital forensic triage requests

The Serious and Organised Crime (SOC) digital forensic manager will review the submission document and allocate the triage work to a Digital Forensic Officer (DFO). The DFO will then contact the OIC to discuss the arrangements for the devices to be delivered to the forensic hub.

Hub Location	Digital Forensic Officers	Email
[Redacted]	[Redacted]	• [Redacted]
[Redacted]	[Redacted]	• [Redacted]
[Redacted]	[Redacted]	• [Redacted]

[Redacted]	[Redacted]	• [Redacted]

Once the device or devices are received, the DFO will undertake digital forensic triage examination of the device. The DFO will contact the OIC to arrange review of the extracted data (if required), to assist in the preparation of triage reports and collection of devices.

- Upon receipt of the triage reports, the OIC will consider whether the device requires further submission to **[Redacted]**. For example, what is the likelihood of the digital forensic evidence being contested in Court?
- If the triage submission identifies that the device has evidential value, the OIC must discuss with their TL or HIL whether the device should be submitted to **[Redacted]** for a full forensic examination and evidential report for Court.
- Submissions to **[Redacted]**
- Digital media (mobile phones, computers, tablets, hard drives, USB drives and satellite navigation systems) – Digital Forensic Submission (FOR1)

The OIC will update the submission document to include only those devices that are of evidential value (removing the non-evidential devices) and including estimated digital forensic costs using Appendix 1. The OIC will fully complete form FOR1 and send both the submission document and FOR1 to their TL or HIL.

The TL or HIL will authorise the forms and email both to the appropriate DFA approver.

- The DFA approver will email approved forms to: **[Redacted]**
On receipt of the forms detailing items for examination, Counter Fraud and Compliance Forensic Services will allocate a Counter Fraud and Compliance authorisation number and e-mail the forms to the DWP Counter Fraud and Compliance Digital Forensic Triage Requests email inbox. The Digital Forensic Manager will allocate the case to a Digital Forensic Officer (DFO).

The DFO will contact the OIC to arrange delivery of the device or devices.

- The DFO will then email the approved submission document to **[Redacted]**. The DFO will then liaise with **[Redacted]** for collection, examination, viewing of data, production of reports or statements and return of the devices.

Upon completion of forensic examination, the DFO will contact the OIC to arrange collection of the reports and devices.

- Cases submitted to **[Redacted]** for analysis will require the completion of the FOR2 emailed to **[Redacted]** inbox upon completion of the work.

Collection and Despatch procedure

- **[Redacted]** is responsible for the safe collection and return of case exhibits between Serious and Organised Crime (SOC) Digital Hubs and Disklabs Limited where applicable.
- Alternatively, Counter Fraud and Compliance can in exceptional circumstances deliver their own exhibits to **[Redacted]** for examination after triage by SOC Digital Hubs, for example, where urgent analysis is required and **[Redacted]** are unable to collect or deliver items within timescale needed
- Collection and delivery dates will be as and when required by Counter Fraud and Compliance, with the agreement of the **[Redacted]**. Co-Ordination Officer. In order to facilitate the collection, Counter Fraud and Compliance Digital Forensic Officer (DFO) must contact:
- **[Redacted]**
- **[Redacted]** Case Coordination Team will determine the dispatch day, with the agreement of the CFC DFO. The CFC team or DFO will be notified of any despatch the day before delivery. **[Redacted]** will transport all case exhibits to the designated DWP forensic hub, where they duly sign over all case exhibits to the nominated CFC DFO as acknowledgement of return in order to preserve continuity and integrity.

[Redacted] Point of Contact Process

[Redacted]

- **[Redacted]**

Action required on completion of forensic examination

- On receipt of all results from forensic service providers and the delivery note, update the case activity on FRAIMS. On receipt of results from the digital forensic supplier complete the FOR2 and return by e-mail to: **[Redacted]**

Complaints procedure

- Enquiries or complaints about the provision of forensic services must be sent by e-mail to: **[Redacted]**

Tamperproof evidence bags

- A supply of Department for Work and Pension (DWP) tamperproof evidence bags for the submission of all forensic evidence, except computers, has been supplied to Counter Fraud and Compliance, Business Management and Strategy (BMS), Quarry House, Leeds: Telephone: **[Redacted]**

CFCD teams must request them prior to submission of evidence for forensic analysis.

- The police will provide tamperproof evidence bags for computers to Counter Fraud and Compliance, BMS (Leeds). These can be obtained on request, prior to a planned arrest by the police. Where appropriate, **[Redacted]** will return mobile phones and computers in tamperproof evidence bags after the forensic examination

Appendix 1

Invoicing Stage	Exhibit & Processes	Qty per exhibit	Number of estimated hrs in	Total charge 10 day TAT		Total charge 5 day TAT	Total charge 24/48 hr

			total for proces ses outlin ed used as multi plier only					TAT
Stage 1	Computer Exhibit Forensic Imaging productio n of working copy / Verificati on of working & Master copy / Productio n of Master copy/ Indexing / (Carving as required)	1	18hrs	[Redac ted]			[Reda cted]	[Reda cted]
Stage 1	Additional hdds Imaging / Verificati on / Master copy / Indexing	1	14 hrs	[Redac ted]			[Reda cted]	[Reda cted]

	/(Carving as required)							
Stage 1	Mobile Phone – Acquisition & Analysis (based on submission form) , Reporting / Witness Statement	1	10hrs	[Redacted]			[Redacted]	[Redacted]
Stage 1	Additional SIMM – Submission Analysis & Reporting/ Witness Statement	1	3hrs	[Redacted]			[Redacted]	[Redacted]
Stage 1	Tablets– Submission Analysis & Reporting/ Witness Statement	1	14hrs	[Redacted]			[Redacted]	[Redacted]
Stage 1	SatNav– Submission Analysis & Reporting/ Witness Statement	1	14hrs	[Redacted]			[Redacted]	[Redacted]

Stage 1	Small Media - USB pen drives etc – Submission Analysis & Reporting/ Witness Statement	1	6hrs	• [Red acted]				
Invoicing Stage	Media costs	Qty		Total charge				
Stage 1	CD & DVD for each master or Working copy	1	Per unit	No charge				
	Return media – 16gb Memory Stick for each master or Working copy	1	Per unit	[Red acted]				
	Return media – 64gb Memory Stick for each master or Working		Per unit	• [Red acted]				

	copy						
	Return media hard drive - for each master or Working copy with less than 3tb of data	1	Per unit	[Redacted]			
Invoicing Stage	Viewing Session (two personnel)	Qty					
Stage 2 (FMU informed)	Half Day	1	Per session	[Redacted]			
	Full Day	1	Per session	[Redacted]			
	Scientific Support	1	Per hour	[Redacted]			
Invoicing Stage	Exhibit & Processes	Qty per exhibit	Number of estimated hours	Total charge	Total charge 5 day TAT	Total charge 24/48 hr TAT	
Stage 2 – post	Computer Exhibit Analysis	1	9hrs	[Redacted]	[Redacted]	[Redacted]	

quote	& Reporting/ Witness Statement						
Invoicing Stage	Description	Qty	Rate				
Post attendance	Court attendance - Full day (8 hours)	1	• [Redacted]				
	Court attendance - Half day (4 hours)	1	[Redacted]				
	Scene attendance - Full day (8 hours)	1	[Redacted]				
	Scene attendance - Half day (4 hours)	1	[Redacted]				
Invoicing Stage	Additional Service	Cost Quoted					
Stage 2 – post quote	Mobile Phone Chip Off	[Redacted]					
	Mobile	[Redacted]					

	Phone Advanced JTagging	cted]	
	Mobile Phone Repair plus parts at cost	• [Red acted]	
	Forensic Data Recovery from Hard Disk Drive with Forensic Report – Recovery of data from physical or logically damaged devices.	• [Red acted]	
Post quote	Cell Site Analysis and Surveying	• [Red acted]	
	Call Data Analysis – The analysis of call records as supplied by the network	• [Red acted]	

	<p>provider for presentati on in court</p>		
	<p>Written response to further enquiries</p>	<ul style="list-style-type: none"> • [Red acted] 	
	<p>Case Conferenc es (Telephon e call)</p>	<ul style="list-style-type: none"> • [Red acted] 	
	<p>On-Site Scene Attendanc e of Forensic Analyst - 18:00hrs- 09:00hrs Monday to Friday (excluding Bank Holidays) & Weekends (18:00hrs Friday - 08:00 Monday)</p>	<ul style="list-style-type: none"> • [Red acted] 	
	<p>On-Site Scene Attendanc e of</p>	<ul style="list-style-type: none"> • [Red acted] 	

	Forensic Analyst – on Bank Holidays (all hours)		
	Accommodation (if required)	As per specification Appendix B	
Stage 2 – no quote	Rail, Taxis and Air travel	At cost – client can arrange and book if required	
Stage 2 – no quote	Travel Time	• [Redacted]	
Stage 2 – no quote	Subsistence	As per specification Appendix B	

09 Obtaining Voice Recordings

Employment and Support Allowance, The Pension Service and Personal Independence Payments

1. This section provides instruction on the actions to be taken when a voice recording of the benefit claim is required.

2. Employment and Support Allowance (ESA), The Pension Service and Personal Independence Payments (PIP) voice recordings should normally only be requested for use in an Interview Under Caution (IUC). Do not request these as a matter of course.

3. This section should be read in conjunction with [FRAIMS User Instructions – Obtaining Voice Recording](#).

Investigator action

4. Voice recordings in respect of ESA, Pension Credit (PC) and PIP claims will be obtained for Counter Fraud Compliance Directorate (CFCD) in the format of a Waveform Audio Format file (WAV). To request a voice recording the investigator must complete either a:

- [VRR15 \(FP\) \(link is external\)](#) for ESA and PIP claims
 - [VRR15 \(Pen\) \(link is external\)](#) for The Pension Service
5. When completing a VRR15 (FP), ensure the 'Indefinite' checkbox under 'Voice Retrieval retention marked' is selected and that you specify the call(s) required for download.

6. If a request for 'All calls to be downloaded' is made, the form will be referred back for clarification of which calls are required.

7. Email the:

- VRR15 (FP) to:
- ESA – **[Redacted]**
- PIP – **[Redacted]**
- VRR15 (Pen) to **[Redacted]**

8. Once the investigator has completed the VRR15 (FP) or VRR15 (Pen) they must create an activity on the FRAIMS case:

- set a 'Due Date' for notification of receipt of the WAV file from CFCD Intelligence
- attach the completed VRR15 (FP) or VRR15 (Pen) to the activity

9. Where the voice recording is not available, the investigator will be notified.

10. The WAV file will be returned direct to the investigator by e-mail, generally within 5 working days depending on volumes and staffing levels.

11. Investigators can listen to a WAV file via Verint Playback Codecs..

12. Access to Verint Playback Codecs can be obtained via a Business Application Management request in Technow

- 13. If the WAV file received is correct, request a transcript, from **[Redacted]**

14. Delete any WAV files received incorrectly and notify the sender. The investigator must:

- update the FRAIMS activity description to confirm receipt of the WAV file
- reset the Activity Due Date to await the transcription from Engie

10 Identification of persons committing offences

Types

1. Identification evidence can be divided into four types:

- eye-witness evidence - recognition and identification
- identification from photography
- identification parades and group identification
- identification from forensic evidence.

2. In any case the investigator must ensure that there is evidence on file, which proves or purports to prove who committed the offence. In many straightforward cases, claimants will admit that:

- they made the claim for benefit

- they signed any declarations
 - they worked/owned capital, etcetera, and identity is not in dispute.
3. In Scotland, an admission by the accused is not sufficient on its own, therefore corroboration is required.

4. Where identification or recognition is not proven, is in issue or in dispute or is likely to be, the investigator will have to gather evidence to prove who committed the offences being investigated. It is essential to distinguish between recognition and identification:

- Recognition cases are those where a witness already knows the defendant sufficiently well to identify them by name.
 - Identification cases are those where the witness does not already know the defendant.
5. Where the witness recognises the suspect as someone well known to them, for example, relative, close friend, neighbour, long-standing employee, or longstanding claimant, this will be more reliable than the recognition of someone less well known to the witness.

6. All witness statements should set out how the suspect came to be known by the witness and should include the phrase “I know and can recognise [the suspect/the accused (in Scotland)]” and should set out how they came to be known by the witness, including:

- the length of time the witness has known the suspect
 - how often the witness saw the suspect
 - it should also provide a detailed description of the suspect.
7. Where recognition is an issue and a third party personally knows a suspect, for example as a Post Office (PO) employee or claimant of long-standing, a photograph or film of the suspect may be shown to the third party to confirm the link (nexus) between them and the suspect.

8. It should be noted that this process is merely a confirmatory exercise and does not conform to any of the formal identification procedures set out in Code D of Police And Criminal Evidence (PACE) Act.

9. Before showing the photographic evidence, record in the investigator’s official notebook:

- the relationship between the third party and the suspect
- how frequently and over what period the third party has seen
- the suspect
- description by the third party of the suspect.

10. The notebook record must be signed and dated by the witness.

11. In England and Wales only, this evidence should be supported by a Section 9 witness statement.. The phrase “I know and can recognise” and the basis for that knowledge and recognition should be incorporated into the statement.

12. In rare cases, aural recognition may be appropriate, where the witness can state that they recognised the voice of the accused, whether directly or during a telephone conversation. Note that the witness must confirm recognition not merely that the person to whom they were speaking gave their name as that of the suspect. Exceptionally, acoustic analysis may be used by an expert to confirm that a taped recording of a voice matches that of the suspect.

Identity procedures

13. An identification procedure must be held in cases where identification is disputed or where the suspect is not well known to the witness. [Code D \(link is external\)](#) of Police and Criminal Evidence Act (PACE) provides for the following methods of identification by witnesses:

- video identification
- identification parade
- group identification
- showing photographs
- confrontation.

Video identification - England and Wales only

14. Video Identification is governed by Annex A of Code D of the PACE Code Of Practice (COP). The witness is shown moving or still images of the known suspect, together with similar images of at least eight others who resemble the suspect. These procedures are conducted by the police.

Identity parade

England and Wales

15. Identity (ID) parades must be conducted by the police alone and the procedures are set out in Annex B of Code D of PACE Code Of Practice (COP) and with the consent of the suspect. There may be a charge, especially if the parade is to be held in an identification suite. The Team Leader or Higher Investigations Leader must decide whether an ID parade is appropriate.

Scotland

16. If difficulties are expected with the identification of an accused by a witness, contact the Procurator Fiscal (PF).

17. The PF determines if an ID parade is necessary and if so instructs the police accordingly. There is no charge for this.

Group identification - England and Wales only

18. After the suspect has refused or has failed to attend an ID parade or participate in a video identity, they may be subjected to group identification with or without their knowledge or consent.

19. The location for the identification is a matter for the 'Identification Officer'. It may take place in Government offices or any public place.

20. The group identification procedure is governed by Annex C of Code D of the PACE COP.

21. It is strongly recommended that it be conducted by the police rather than the investigator, more so since it may follow a deliberate failure by the suspect to participate in an identity parade.

Confrontation by a witness - England and Wales only

22. Only if the above procedures are impracticable should the police use this procedure – see Annex D to Code D of the PACE COP. It is an inherently unreliable method of establishing identity.

23. The risk with this method of identification is that the witness might automatically know who is suspected of having committed the offence.

24. Jobcentre Plus officers must not undertake Annex D Code D confrontation procedures.

Showing photographs

25. Annex E of Code D of the PACE COP sets out the procedure to be adopted by the police when showing photographs to the suspect and states; "An officer of Sergeant rank, or above, shall be responsible for supervising and directing the showing of photographs. The actual showing may be done by any officer or police staff."

26. The supervising officer must confirm the first description of the suspect given by the witness, has been recorded before they are shown the photographs. If the supervising officer is unable to confirm whether the description has been recorded they shall postpone showing the photographs.

27. The witness must be shown not less than twelve photographs at a time, which shall, as far as possible be of a similar type.”

28. This identification procedure applies to the police and is meant to assist in establishing identity. It does not apply to recognition cases.

11 Referral to Fraud and Error Service Accountancy Service

Introduction

1. In order to assist investigators or accredited Financial Investigators in cases involving complex accountancy a Counter Fraud Compliance Directorate (CFCD) Accountancy Team is available.

2. Typical cases that can be referred would include the following:

- money laundering cases
- multi-Business cases
- cases where technical assistance is required in relation to accountancy or tax issues
- Access to Work cases in which doubtful accountancy or suspected money laundering is evident.

The list is not exhaustive.

Referral process

3. Once an investigator or accredited Financial Investigator (aFI) is of the opinion that a case may be suitable for referral to the accountant they must initially contact a member of the Accountancy Team by email or telephone giving a brief summary of the case and why advice is required. The contact details are:

[Redacted]

Email: **[Redacted]**

Tele No: **[Redacted]**

4. If the accountant agrees that the case should be referred, the investigator or aFI must complete the  [Accountant Tasking Doc](#) and email it to the accountant Inbox at:

[Redacted]

5. It is important that this accountant Inbox is only used for referrals.

6. Record the initial contact and referral details as activities on FRAIMS. For further information see [FRAIMS – Activities](#).

7. If the case is suitable for progression by the Accountancy Team, the case will be associated to the accountant. See [FRAIMS – Associating or Removing a Colleague](#).

8. The accountant who has been allocated the referral will arrange a formal meeting with the investigator or aFI to discuss what information is required or available and how he intends to progress the case.

9. Documents required for analysis will be sent to the accountant by the [TNT Fully Tracked Courier Service](#). The investigator or aFI will obtain the courier address from the accountant who has been allocated the case.

Action by accountant

10. The accountant will analyse the appropriate records and compile a report for the investigator or aFI. They may also provide an expert witness statement if the case is suitable for prosecution.

11. While the accountant is carrying out the analysis he will liaise with the investigator or aFI and give updates on the progress made and request any additional information required to assist the analysis.

12. All updates and requests for additional information must be recorded as activities on FRAIMS.

FES Identity and Authorised Officer Cards and Authorised Officer Certificates

00 Introduction

Introduction

1. All Counter Fraud Compliance Directorate (CFCD) investigators are required to carry an Identity (ID) card when visiting claimants in their own homes or when visiting external organisations.

2. They must be available at all times whilst investigators carry out their duties and must be shown when requested.

Identity card and wallet security

3. Investigators must take particular care when holding a Counter Fraud Compliance Directorate (CFCD) Identity (ID) card/wallet. The following minimum security guidelines must be followed:

- the loss of a card and/or wallet must be reported immediately to the Team Leader / Higher Investigations Leader
- responsibility for the safe keeping of ID cards and wallets lies with the holder at all times
- cards must be carried when the officer is on duty and produced on request, or when required
- cards and wallets must not be left unattended in a briefcase, vehicle or unlocked drawer
- cards and wallets must not be taken out of the United Kingdom (UK), unless on official business

- if you do not intend to use your card for a period of time it should not be carried with you.
- 4. ID cards and wallets are security items, which if lost and subsequently found by a member of the public could cause embarrassment for the Department.
- 5. **[Redacted]**
- 6. DWP people and Security Advisors need to be aware of lost/stolen ID cards/wallets for this purpose.

01 Application and cancellation process

How to apply for a Fraud and Error Identity card

To obtain a Counter Fraud Compliance Directorate (CFCD) Identity (ID) card, investigators must complete the [AO6 \(link is external\)](#) application form. This form is also used to apply for a Section 109A Authorised Officer (AO) card.

Applicants must specifically state which ID card is being applied for by selecting the appropriate heading on the drop-down list:

- ID1 is the ID card
- ID1W is the Welsh version
- ID2 is authorised officer card
- ID2W is the welsh version

It is important that if a card is already in issue, the original card number is quoted in full on the form.

A recent photograph meeting the criteria specified below must be supplied when the application is made. The photograph must be:

- colour
- passport size - H45mm x W35mm
- head and shoulders only
- no headwear must be worn (unless it's worn for religious or medical reasons)
- eyes open
- taken against a light coloured background

Once completed, the application form must be authorised by the Team Leader (TL) or Higher Investigations Leader (HIL) and forwarded to the area CFCD Identity card contact.

The CFCD ID card contact will note the request on a central database and send the applications forms direct to the supplier, see [aide memoire for mail distribution \(link is external\)](#) for details of how to send:

[Redacted]

Action on receipt of the Identity cards

Upon receipt of the card the CFCD ID card contact will:

- record receipt of the ID cards on the spread sheet
- quality assure the cards

The area CFCD ID card contact will forward the ID card and ID card wallet, to the investigator or Senior Manager by Special Delivery, TNT or by hand where appropriate.

Note: If issuing the cards using the track and trace system (TNT), please note the consignment and the poly-lope as **restricted** and the floor number, if applicable, where the officer is based. This will ensure that the card will be delivered directly to the officer or Senior Manager. Annotate the database with the action.

The investigator must provide a signed acknowledgement of receipt, including the ID or Authorised Officer (AO) card and/or wallet number on this acknowledgement.

If the card is delivered by hand to a Senior Responsible Officer (SRO) they will provide a signed receipt confirming acknowledgement of card receipt, including the ID or Authorised Officer (AO) card and/or wallet number on this acknowledgement.

The SRO ensures that the member of staff takes receipt of the card. The SRO will obtain a signature confirming receipt of the card. This confirmation should be communicated to the CFCD ID card contact who will note the successful delivery on the central records.

The full audit trail detailing the transaction should be maintained and stored as confirmation.

ID cards and wallets are secure items and must be treated accordingly, see [ID card and wallet security](#).

Team Leader or Higher Investigations Leader checks

Team Leaders (TLs) or higher Investigations Leaders (HILs) must assure themselves that the processes covering the security of ID cards are operated correctly and that there is no indication of irregularity.

Cancelling the Identity card

The Identity (ID) card and wallet must be surrendered and cancelled in the following circumstances. If the cardholder:

- terminates their employment
- transfers outside Counter Fraud Compliance Directorate (CFCD)
has a change of duty, which means they are no longer required to visit claimants or external organisations

When a card is surrendered the Team Leader (TL) or Higher Investigations Leader (HIL) must invalidate it by cutting it in half in the presence of the cardholder. TLs or HILs must ensure that data required by the relevant CFCD contact, such as the card number in the bottom left hand corner, is not obliterated.

The TL or HIL must forward the ID card or wallet to the area CFCD ID card contact with a covering letter explaining the reasons why it has been surrendered.

The wallet will now be obtained from or returned to the Local CFCD ID card contact. All date (serial number) of ID card wallets should be held alongside that for ID cards on the same data base. ID cards and wallets, including the metal badge, must be destroyed by placing in separate confidential waste sacks, tied and labelled with content.

02 Loss of Identity card and wallet

Counter Fraud and Compliance Directorate actions

Investigator action

1. If an Identity (ID) card and/or wallet is lost or stolen you must report the loss to the police immediately. It is advisable to report the loss to the police station nearest to where the card/wallet might have been lost or one nearest your permanent place of work.
2. **[Redacted]**
3. Investigators must also notify the Team Leader (TL) / Higher Investigations Leader (HIL) and the relevant Counter Fraud Compliance Directorate (CFCD) card contact in writing.
4. The area CFCD ID card contact will update the user log with details of the loss.

TL / HIL action

5. The TL / HIL must carry out a fact finding interview with the officer who has lost the card/wallet, including:

- obtaining police reports
- details of when the card/wallet was last used or seen
- the card and wallet number(s) and expiry date(s).

6. CFCD people should be reassured that it is in their best interest to have the matter documented.

7. The TL / HIL must forward a report of the fact finding interview and conclusion to the local district Security Advisor who will determine if any further action is necessary.

8. The TL / HIL will then determine whether:

- local procedures should be reviewed or improved
- the loss/theft arose through negligence
- further action is appropriate.

9. This information is not required by the area CFCD card contact and is for line manager information only.

Application for an Identity card after loss

10. Following the loss/theft of an Identity (ID) card and/or wallet, the new application for a replacement card should be sent to the area Counter Fraud Compliance Directorate (CFCD) ID card contact.

11. A report from the Team Leader (TL) / Higher Investigations Leader (HIL), providing details of the loss/theft and the police crime number must also be sent. See [How to apply for a CFCD Identity Card](#).

12. If a temporary Section 109A Authorised Officer (AO) card is required, see Part 1 Section 8 of the [Payment Guide \(link is external\)](#).

13. Area CFCD ID card contacts do not have any responsibility for these temporary cards and queries should be passed to your local Finance Office within the Department for work and Pensions.

Action to take if a card or wallet reported lost is later found

14. If a card/wallet is found after it was reported lost, the card holder must:

- inform the police so that their records can be updated
- inform the Team Leader / Higher Investigations Leader (HIL).

15. The TL / HIL will notify the area CFCD ID card contact and destroy the card, see [Cancelling the Identity card](#).

03 SSFA 20 Authorised Officer certificate - Application and cancellation process

How to apply for a SSFA 2001 Authorised Officer certificate

To obtain a Counter Fraud Compliance Directorate (CFCD) Criminal Intelligence Social Security Fraud Act (SSFA) 2001 Authorised Officer certificate, Criminal Intelligence Executive Officers (EOs) must gain a pass mark through the Authorised Officer Powers for Intelligence Gathering training. The training, available on Resource Management, consists of pre-course e-learning material followed by half a day classroom based training.

On completion of EO training, the Higher Intelligence Leader (HIL) must complete and authorise the [AO7 \(link is external\)](#) application form, on behalf of the EO, and forward to the Single Point Of Contact by email to: **[Redacted]**

On receipt of the completed [AO7 \(link is external\)](#) the SPOC will allocate the next available certificate. The SPOC must sign the [AO7 \(link is external\)](#) and record the certificate number and date of issue. The SSFA 2001 Authorised Officer database will be updated with details of the new certificate holder.

The SPOC will send the new certificate and the completed [AO7 \(link is external\)](#) to the Senior Intelligence Leader (SIL) for authorisation by secure means, see [Movement of Documents](#). Receipt of the certificate and [AO7 \(link is external\)](#) must be acknowledged by the SIL via e-mail.

The SIL will authorise the certificate by signing it and the [AO7 \(link is external\)](#), ensuring that the certificate serial number matches that recorded on the [AO7 \(link is external\)](#). If not, provide details of the correct number on the [AO7 \(link is external\)](#).

The SSFA Authorised Officer certificate and [AO7 \(link is external\)](#) will be forwarded securely to the investigator, see [Movement of Documents](#).

Action on receipt of the SSFA 2001 Authorised certificate

On receipt, the investigator must sign the certificate in the presence of the Higher Intelligence Leader (HIL). The AO7 must be signed and dated and forwarded to the Single Point of Contact (SPOC) for filing.

SSFA Authorised Officer certificates are a secure item and must be treated accordingly.

For use of SSFA 2001 powers, see [Intelligence Gathering](#) for guidance.

Checks

Higher Intelligence Leader checks

Higher Intelligence Leaders (HILs) must assure themselves that the processes covering the security of the Authorised Officer certificate are operated correctly and that there is no indication of irregularity.

A check must be made once a year, which must include:

- the inspection of all Authorised Officer certificates to confirm that they are still held by the person to whom they were issued – irregularities must be reported immediately by e-mail to the Single Point of Contact (SPOC)
- confirmation that the certificate is still required by the holder
- any certificate no longer required must be withdrawn, cancelled and returned to the SPOC
- a reminder must be issued to all certificate holders of the conditions of possession
- record certificates checked and provide confirmation the check has been completed to the SPOC

Single Point Of Contact checks

Additional checks to be conducted by the SPOC:

- cross-check unused stock of certificates with entries in the stock register
- check that all certificates issued since last check have been authorised by the manager, by checking the [AO7](#)

04 Loss of a SSFA 20 Authorised Officer certificate

Fraud and Error Service Criminal Intelligence actions

SSFA 2001 Authorised Officer action

1. If a Social Security Fraud Act (SSFA) 2001 Authorised Officer certificate is lost or stolen you must report the loss to the Higher Intelligence Leader (HIL) immediately.

Higher Intelligence Leader action

2. The Higher Intelligence Leader (HIL) must carry out a fact finding interview with the officer who has lost the certificate, including details of when the certificate was last used or seen.

3. Counter Fraud Compliance Directorate (CFCD) people should be reassured that it is in their best interest to have the matter documented.

4. The HIL must inform the Single Point of Contact (SPOC), Birmingham immediately by e-mail of the loss, so the SSFA 2001 Authorised Officer database can be updated.

5. The HIL will then determine whether:

- local procedures should be reviewed or improved
- the loss/theft arose through negligence
- further action is appropriate.

Application for a replacement SSFA 2001 Authorised Officer certificate after loss

6. Following the loss/theft of a certificate, a new [AO7 \(link is external\)](#) application for a replacement certificate should be completed and sent to the Higher Intelligence Leader (HIL) for authorising, see [Application and Cancellation process](#).

7. The AO7 should be clearly marked 'REPLACEMENT'.

Action to take if a certificate reported lost is later found

8. If a certificate is found after it was reported lost, the certificate holder must follow the process for cancelling an Authorised Officer certificate, see [Application and Cancellation process](#).

SSFA 2001 Authorised Officer certificate security

9. Social Security Fraud Act (SSFA) 2001 Authorised Officer certificates are security items, **[Redacted]**

10. Particular care must be adopted and the following minimum security guidelines adhered to:

- loss of a certificate must be reported immediately to the Higher Intelligence Leader (HIL)
- responsibility for the safe keeping of a certificate lies with the holder at all times
- certificates must be kept securely locked away when not in use
- certificates must not be left unattended.

Financial Investigations

00 Introduction

1. This section explains the role of Financial Investigations within Counter Fraud & Compliance Directorate (CFCD). It is not intended as a complete guide for accredited Financial Investigators (aFIs) who will be specifically trained to deal with this type of work. Nevertheless, it is essential that all investigators understand where financial investigations fit into their work and how to refer cases when appropriate.

2. In Scotland the Criminal Justice Act (CJA) 1988 does not apply to the confiscation of the proceeds of crime. The powers, which can be exercised, are the Proceeds of Crime (Scotland) Act 1995 and the Criminal Law (Consolidation) Act 1995.

3. Financial Investigation Unit (FIU) investigators in Scotland are professionally trained and accredited with the Scottish Police College.

4. Although the role and purpose of the FIU in Scotland is the same as in England and Wales, the processes and working practices are different. However, the main focus is still to remove the profit from benefit fraud and confiscate the criminal's assets.

5. In Scotland, a financial investigation may establish laundered monies/assets and additionally the law in Scotland allows the FIU to conduct:

- civil recovery – against the subject/family assets if it may have been gained by criminal monies. This can be undertaken even where the asset does not form part of the Department for Work and Pensions (DWP) investigation, or
- tax assessment – if a subject(s) has a high turnover of substantial funds through their personal accounts.

6. The FIU will record any Civil Recovery order or tax assessment obtained as a result of the CFCD investigation on QUILL.

7. The FIU is part of CFCD Criminal Investigations and was reformed in 2003 to accommodate the changes brought into force by the Proceeds of Crime Act (PoCA) 2002.

8. The PoCA provides for confiscation orders in relation to persons who benefit from criminal conduct and for restraint orders to prohibit dealing with property, including money, and to allow the recovery of such property, including money, during the enforcement of any confiscation order made. The PoCA also makes provision for the prosecution of money laundering offences.

9. The main role of the FIU is to confiscate the proceeds of crime from DWP prosecuted cases. This is done by means of:

- the investigation of assets, including hidden assets, the analysis of bank statements and investigation into the lifestyle of people involved, directly or indirectly, in benefit related crime
- applying to the Courts, through the Crown Prosecution Service (CPS), for restraint orders, under Part 2 of PoCA, to prevent assets from being transferred, hidden or disposed of
- applying, on conviction, to the Courts for Confiscation and or Compensation Orders to recover monies obtained through benefit related crime and
- obtaining financial information through powers of production orders under Part 8 of PoCA.

10. The FIU performs financial investigations on cases referred to them by all Business Units conducting investigations involving acquisitive crime across the DWP, in the main this involves DWP CFCD and Local Authorities (LAs).

11. Investigations are also undertaken on cases referred by Other Government Departments (OGDs) where joint working is involved and where DWP has primacy on a multi-agency prosecution, and certain other cases where CPS have the prosecuting authority, including LA only cases.

FIU Case Management System - QUILL

12. FIU use a case management system called QUILL where all actions on the financial investigations are recorded.

13. FIU have to meet a set of national occupations standards throughout the investigation to maintain their National Crime Agency (NCA) accreditation. For this reason the FIU use QUIILL to; maintain, event and policy log their activities.

01 Legislation

1. Legislation under which financial investigations proceed are divided into:

In England and Wales

- pre Proceeds of Crime Act (PoCA) 2002 and
- post Proceeds of Crime Act 2002.

In Scotland

- Proceeds of Crime (Scotland) Act 1995 and
- the Criminal Law (Consolidation) Act 1995.

Pre PoCA 2002

2. The Criminal Justice Act (CJA) 1988, as amended by the CJA 1993 and PoCA 1995, was introduced to allow Crown Courts to confiscate the proceeds of criminal activity.

3. Section 71 of the CJA 1988 deals with confiscation orders and this provision will continue to apply in those cases where the defendant is convicted of offences where some or all charges occurred before 24 March 2003.

Post PoCA 2002

4. The PoCA 2002 came into force on 24 March 2003. Under the PoCA 2002 a confiscation hearing is only heard in the Crown Court for England and Wales and the court makes a confiscation order, if the provision under Part 2 of PoCA 2002, are satisfied.

5. A confiscation hearing can be applied for by the prosecutor or is directed by the court. Where there is a monetary loss and the referral criteria apply the case must be considered for financial investigation at the earliest opportunity.

6. The PoCA 2002 created the Assets Recovery Agency (ARA), in 2009 ARA was disbanded with their role transferred to the National Policing Improvement Agency (NPIA), later this became the National Crime Agency (NCA). One of NCA's functions is to establish a system for the accreditation of Financial Investigators (aFI) in England and Wales.

7. To use the various powers set out in PoCA 2002 an aFI must be accredited by NCA and thus any financial investigations in Department for Work and Pensions (DWP) are only undertaken by aFIs, with the appropriate accreditation, within the Financial Investigations Unit (FIU).

Criminal Procedure and Investigation Act (CPIA) 1996

From the outset of the Proceeds of Crime Act (PoCA) 2002 legislation, it has been emphasised that confiscation is part of the post conviction penalty regime, except where money laundering criminal investigation is undertaken. To this extent the Financial Investigation Unit (FIU) retains a schedule of documents that could be brought to the courts attention as a matter of best practice but have not been undertaking full disclosure.

9. This means that there are clear roles and responsibilities throughout the course of the investigation between the FIU and criminal investigations. These roles are:

- investigator assumes responsibility for disclosure up to the completion of trial

- accredited Financial Investigator (aFI) discloses any relevant facts to counter fraud counterpart
- investigators check at regular stages that there are no additional matters for disclosure
- staff in the prosecutor's office must be aware of this dual responsibility and ensure that a final check is made before disclosure is served on the defence
- post conviction responsibility for disclosure passes to the aFI until the completion of the Confiscation Hearing
- in the matter of money laundering cases the lead aFI and the Officer In Charge (OIC) should draw up an agreement as to roles and responsibilities for disclosure and place this on record on the files and
- disclosure of Suspicious Activity Reports (SAR) is the role of the FIU and OICs disclosure officers. They should discuss on a case-by-case basis. Standing instructions exist within FIU to preserve sensitivity, Criminal Intelligence will also have a role in the development of SARs.

02 Referral process, including FIU Intelligence checks

Referral process

1. The financial threshold for referring cases to the Financial Investigation Unit (FIU) is **[Redacted]** All cases meeting the financial threshold must be considered for a referral to Financial Investigations Unit (FIU).

2. The only exceptions to this figure are:

[Redacted]

Note: The above examples are not exhaustive.

3. In cases where the overpayment is less than **[Redacted]**

[Redacted]

[Redacted]

4. In Scotland only, the FIU can also facilitate Civil Recovery and/or Tax Assessments on Department for Work and Pension (DWP) cases, the investigator should contact the FIU (Scotland) to obtain advice if they consider a case may be suitable for these actions, for more information see [Financial Investigations - Introduction](#)

5. Consideration must be given to refer a case to FIU as soon as there is an indication that the financial criterion will be reached. Do not wait until the overpayment has been calculated to refer the file.

6. If there are no apparent discernible assets and:

- the case is not a capital case, or
- the defendant lives in rented accommodation, and
- the investigator has not identified other assets or savings within the investigation

the investigator must consider contacting their local FIU who will discuss and decide whether a referral is appropriate, as there may be laundered monies or hidden assets.

7. If agreement has been obtained from FIU that an [FIU1 \(link is external\)](#) is not appropriate a record of the decision must be placed as an activity on FRAIMS by the fraud investigator in every case meeting the **[Redacted]** threshold.

Intelligence gathering by the FIU

. The Financial Investigation Unit (FIU) Intelligence (Intel) officer will undertake basic intelligence checks with:

[Redacted]

9. Following the intelligence gathering, the case will be sent to the FIU referral manager to decide case can be:

- accepted
- accepted, but held on review, or
- closed

Case accepted

10. Where the case is accepted by the FIU Higher Investigations Leader (HIL) they will update QUILL and send the case to the FIU Intel officer who will associate the appropriate aFI to the case for FIU investigation actions to begin, see FRAIMS guidance – Case accepted and sent for aFI action

Case accepted but held on review

11. Where the case is accepted but it does not require immediate action the FIU Intel officer will hold the case pending further FIU action and notify the investigator that the case has been accepted but is not yet allocated to an aFI, see FRAIMS guidance – Case accepted but held on review

Case not accepted

12. If following intelligence gathering the case is not accepted by FIU, the FIU Intel officer will remove the FIU Interest marker from the case and notify the investigator that no further FIU actions will be taken on the case, see FRAIMS guidance – Case closure

13. On receipt of the activity, the investigator must update the activity to 'Done'.

03 Investigations

Investigations

The Financial Investigation will run in parallel to the criminal investigation. It is important that the ownership of the case on FRAIMS remains with the criminal investigator at all stages.

Under no circumstances should the FRAIMS case be transferred to the Financial Investigation Unit.

Communications from Financial Investigation Unit to Investigations and Crown Prosecution Service

When the Financial Investigation Unit is allocated a case for financial investigation they will send their contact details and any other information which is required for the financial investigation, to the CFCD investigator or Officer in Charge by creating an activity on FRAIMS.

Where the contact is with the Crown Prosecution Service (CPS), the contact must be sent by email and an activity created on FRAIMS to note the issue of the email.

On receipt of the activity the case owner will update the Status to 'Done'

Financial Investigations Unit notifications of actions undertaken – Part 8 Orders or Part 2 Orders (Part 8 Orders or Part 3 orders in Scotland)

Where the Financial Investigations Unit (FIU) has obtained a Production Order, Customer Information Order (CIO) or Account Monitoring Order (AMO), FIU will notify the case owner by creating an activity in FRAIMS.

Where the Financial Investigations Unit (FIU) has obtained a restraint order, FIU will notify the case owner by creating an activity in FRAIMS.

Proceeds of Crime Act Section 70 notice to the Crown Prosecution Service (England & Wales only)

Financial Investigations Unit (FIU) will issue by email the Proceeds of Crime Act (POCA) Section 70 notice and Crown Prosecution Service (CPS) notifications and record this as an activity on the FRAIMS case.

Confiscation Timetable Set

When the Financial Investigations Unit (FIU) has the Confiscation Timetable, or equivalent in Scotland, FIU will take the following action:

- create a FRAIMS activity to notify the case owner that a Confiscation Timetable or equivalent in Scotland has been submitted and the case can be closed. This is providing all other Investigation activities are complete
- remove the FIU marker from FRAIMS
- remove FIU details from FRAIMS case

Financial Investigations Unit FRAIMS case interest complete

Responsibility for closing investigation cases in FRAIMS rests with the case owner. Once FIU action is complete, a FRAIMS notification will be received from the FIU either because:

- initial FIU referral was not accepted
- FIU Intelligence gathering or investigation results in no further FIU interest, or

- the Confiscation Timetable or equivalent in Scotland, has been submitted to the Crown Prosecution Service (CPS) or Serious and Organised Crown Division (SOCD) in Scotland by the FIU

FIU will remove the FIU Interest marker and the FIU details from the FRAIMs case

Where the FRAIMs case displays a FIU marker, responsibility for removing this marker rests with the FIU. If the Error Message 'Cannot close case if FIU interest (SBL-EXC-00151)' appears on the FRAIMs case when case is being closed, contact the FIU to remove the marker before taking case closure action.

The FIU marker will be removed from the case and all FIU colleagues associated to the case will be removed.

Counter Fraud and Compliance Directorate Managers Roles

00 Introduction

Introduction

1. The information and guidance in this section is for those involved in the management of fraud investigations.
2. All managers within the Department for Work and Pensions (DWP) must comply with the policy requirements outlined in the next section and legal requirements such as those contained in the Data Protection Act 2018 and the Human Rights Act 1998.
3. Counter Fraud Compliance Directorate (CFCD) managers must also comply with policy and legislation specific to fraud investigations. The purpose of this guidance is not to duplicate guidance already available in relation to these requirements but to provide a brief summary of where this guidance can be found.
4. Further information is available in the [Team Fraud Investigator Manual \(link is external\)](#).
5. This section provides guidance to assist CFCD managers when carrying out their day-to-day duties

Requirements for all managers

6. All managers in the Department for Work and Pensions (DWP) have a responsibility for complying with the following:

Human Resource Policies

7. Managers must comply with the guidance given within the Human Resource A-Z website. This includes guidance on Health and Safety issues.

8. For more information, see the [Human Resources A-Z \(link is external\)](#) website.

Resource Management Policies

9. Compliance with the requirements of Resource Management is mandatory, for more information and guidance, see the [Resource Management \(link is external\)](#) website. This includes:

- Personal Development System (PDS)
- authorisation of expenses
- identification and authorisation of Learning and Development (L&D) products
- managing attendance.

Corporate Governance policies

10. Managers must ensure that they and their people apply appropriate governance procedures.

Business Controls System

11. All managers must be aware of the requirements for Business Controls System (BCS) checks. For information and guidance see the [Business Controls System \(BCS\) Guidance \(link is external\)](#).

Security Policies

12. All managers must ensure that they and their people are aware of and comply with the DWP security policies in relation to:

- smart cards and security items such as personal and restricted documents
- emails, the intranet and internet, for further information see: [Acceptable Use Policy](#)
- operating official equipment correctly and complying with secure storage procedures
- a clear desk policy
- role of the Security Advisor ensuring appropriate liaison.

13. For further information on security, see the [DWP Security Portal \(link is external\)](#)

Liaison with stakeholders

14. Ensure liaison with stakeholders within DWP when risks and impacts to other parts of DWP business are identified.

Disclosure of information

15. Managers should make sure that:

- they and their people are aware of and comply with all legal gateways when disclosing information to a third party, for more information, see [Legislation and Departmental Policy](#)
- sensitive material is identified, correctly endorsed and is not disclosed inappropriately.

Human Rights Act 1998

16. Make sure that they and their people are aware and comply with the requirements it places upon the Department, particularly in relation to Article 6 which is the right to a fair trial and Article 8 which is the right to respect for private and family life.

Job role catalogue

17. Job Roles specific to Counter Fraud Compliance Directorate (CFCD) from investigator to Head of CFCD can be found in the [CFCD Job Role Catalogue](#)

01 Management structure and responsibilities

Management structure

1. The Head of Counter Fraud Compliance Directorate (CFCD) manages fraud business throughout Department for Work and Pensions (DWP) and ensures that their people comply with the:

- relevant legislation
- DWP policy

- policy specific to CFCD work agreed by the Senior Leadership Team (SLT).
2. CFCD criminal investigations are based on a geographical area and are managed by the:
- Group Manager – for Investigations
 - National Intelligence Leader – for Criminal Intelligence
 - National Investigations Leader – for Criminal Investigations, The National Investigations Leader is also responsible for the CFCD Financial Investigation Unit (FIU).
3. Each Group Manager command has Senior Investigations Leaders and Team Leaders (TFIs) who manage the various areas of fraud work
4. For Criminal Intelligence and Criminal Investigations, the structure is similar with both Senior Investigations Leaders and Higher Investigations Leaders in place.

Management responsibilities

5. In order to carry out their roles Counter Fraud Compliance Directorate (CFCD) managers need to:

- be fully conversant with all appropriate legislation including the:
 - Social Security Administration Act (SSAA) 1992
 - Police and Criminal Evidence Act (PACE) 1984
 - Criminal Procedures and Investigations Act (CPIA) 1996
 - Regulation of Investigatory Powers Act (RIPA) 2000
 - Criminal Justice Act (CJA) 2003
 - Criminal Procedures (Scotland) Act (CP(S)A) 1995
- ensure that their people comply with legal and CFCD policy requirements in the investigation into allegations of benefit fraud including Codes of Practice.
- complete the relevant awareness training available (such as Disciplines of the Counter Fraud Profession framework. Risk Assessment module)
- be aware of the role of the Crown Prosecution Service in England and Wales (E&W) and the Procurator Fiscal in Scotland
- promote closer working between Department for Work and Pensions (DWP) and other departments and organisations
- liaise with other agencies to consider joint investigations, ensuring that partnership agreements are adhered to
- ensure that management checks, including Quality Assurance Framework (QAFs) checks are carried out
- engage with key stakeholders and Trade Union (TU) side when required
- draft responses for Ministers when required
- ensure that procedures are in place to identify and inform their people without delay of changes to legislation and policy that impact on their work.
- ensure that their people operate safely within the boundaries of the appropriate Health and Safety regulations
- ensure they and their people are fully conversant with FRAIMS and IT systems and databases used to carry out their functions
- ensure achievement of fraud Investigation Service agreed Key Management Indicators (KMIs) and targets.

Awareness of Risk and your responsibilities

6. All managers and their staff need to have an awareness and understanding of risk as a management tool.

Risk Assurance is split:

- risk is in Finance Directorate
 - audit is part of a government audit function.
- Managers and their staff are personally responsible for consideration of risk in their own functions and actions.

Every member of staff – is responsible for understanding and managing the risks they take on behalf of DWP and for making sure they act within the authorities and accountabilities which have been delegated to them, including compliance with any policy, procedural and control requirements.

There is no requirement to record a risk log for every possible risk, cause and consequence that could ever happen; focus on those that are likely to impact our ability to deliver our service which we need to do something about, and record only these on the risk register.

Further guidance on making a decision can be found [here \(link is external\)](#). While the link to the main Risk Management Directorate page can be found [here \(link is external\)](#).

Where you identify an issue relating to a potential risk of an offence by internal staff make a referral, [Staff Investigations \(link is external\)](#).

Where you identify an issue relating to a potential risk involving a contractor make a referral, [Contract Investigations \(link is external\)](#).

If you are required to liaise with Audit then that is now a part of [Government Internal Audit Agency \(link is external\)](#) (GIAA).

02 Role of Fraud and Error Service Managers

Role of the Group and National Managers

Group Manager

1. The Group Manager (GM) is responsible for managing a geographical operational area,
2. GMs are responsible for geographical areas manage operational investigation of potential and actual fraud activity within their area command.

National Investigations and National Intelligence Leaders

3. The National Investigations Leader manages nationally the investigation of potential and actual fraud defined within the organised criteria and also has responsibility for the Financial Investigation Unit (FIU).
4. The National Intelligence Leader manages nationally Criminal Intelligence ensuring that incident management, intelligence gathering, data analysis and disclosure of information complies with departmental policy.

Role of Senior Investigations and Intelligence Leaders

5. The Senior Investigations Leaders (SIL) in operational area commands manage investigation of potential and actual fraud activity within a specific unit.
6. The Senior Investigations Leader (Criminal and Financial) and Senior Intelligence Leader manage their respective teams at an unit level.
7. SILs in Investigations are also responsible for surveillance authorisation in accordance with Regulation of Investigatory Powers Act (RIPA) 2000 and approaches to the police for them to consider arrest and search and seizure.
8. The Financial Investigation Unit (FIU) SIL manages on a national basis financial investigation teams.

Regulation of Investigatory Powers Act 2000 Authorisations

9. All directed covert surveillance activities must be authorised by a SIL in accordance with RIPA 2000. The SIL is also responsible for reviewing and renewing RIP authorisations and for the maintenance on FRAIMS on to which all authorisations must be recorded.
10. This may be examined during inspections by Investigatory Powers Commissioners Office (IPCO) inspectors. Inspections are normally carried out annually.

11. For further information, see [Surveillance](#).

Authority to approach the police

12. There are occasions when an investigator feels that in order to progress the investigation the police should be approached to consider arresting the suspect.

13. An approach to the Police for them to consider an arrest can only be authorised by a SIL. For guidance on the procedure, see [Arrest](#).

14. A Team Leader / Higher Investigations Leader or investigator may feel that it is necessary to consider the search of premises to enable the seizure of documents to be used as evidence.

15. The request to carry out search and seizure must be authorised by an officer not below SIL. For guidance on the procedure see [Search and Seizure](#).

Head of Radio Communications or Crypto Custodian

16. A nominated Senior Investigations Leader within the Counter Fraud Compliance Directorate (CFCD) Support Team has national management responsibility for the security of the CFCD Airwave Service Radio terminals and software upgrade devices and act as national co-ordinator for the Area Radio Terminal Custodians (RTC).

17. For further information, see [Radio Procedures](#).

16. A nominated Senior Investigations Leader within the Counter Fraud Compliance Directorate (CFCD) Support Team has national management responsibility for the security of the CFCD Airwave Service Radio terminals and software upgrade devices and act as national co-ordinator for the Area Radio Terminal Custodians (RTC).

17. For further information, see [Radio Procedures](#).

03 Team Leader and Higher Investigations and Intelligence Leader role

Role of the Team Leader and Higher Investigations Leader

Team Leaders (TLs) and Higher Investigations Leaders (HILs) manage the Counter Fraud Compliance Directorate (CFCD) teams. For example:

- Investigations
- Criminal Investigations
- Digital Case Management Units (DCMU) – England and Wales
- Central Prosecution Teams (CPT) - Scotland
- Financial Investigation Units (FIU).

TLs and HILs are responsible for the distribution of cases received in the team inbox to the relevant user.

The Higher Intelligence Leader (HIL) is responsible for all incidents that need manual intervention and ensuring that they are forwarded to appropriate team members to be progressed.

TLs and HILs discuss cases with individual investigators as required and provide direction and advice on how to progress the case.

TLs and HILs ensure that all necessary enquiries and authorisations/checks are conducted as soon as possible.

The TL and HIL must complete all Quality Assurance checks relevant to their people to identify and seek to address weaknesses within their team and ensure compliance with current procedures.

Regular team meetings must be held to discuss and resolve matters that concern both managers and their people. This includes discussion of new legislation and policies that impact on the work of their team to ensure that they are fully understood and correctly applied.

Team Leader and Higher Investigations Leaders responsibilities

Security

The policy and guidance contained within the Fraud Guidance has been developed using a risk management based approach.

Compliance with the Fraud and Fraud Referral and Intervention Management System (FRAIMS) guidance is particularly important in the following areas in ensuring that strategic risk involved in fraud work is addressed by Counter Fraud and Compliance managers:

- ensuring proper storage of Interview Under Caution (IUC) master recordings
- overseeing the issue and retention of [official notebooks](#)
- the [authorisation of surveillance](#) to ensure that application and authorisation procedures are followed
- applying [missing files](#) procedures
- approving requests for [forensic evidence](#) examination as necessary
- correct completion of [disclosure schedules](#)
- ensuring that [sensitive material](#) is correctly identified, marked and removed from evidence files and or FRAIMS prior to submission to a decision maker
- ensuring that they and their people have a full understanding of all relevant legislation when preparing a [fraud drive](#) and ensure that departmental policy and guidance is adhered to, including Health and Safety issues.

Management of investigations

The Team Leaders (TLs) and Higher Investigations Leaders (HILs) decide how many cases are allocated to investigators within their respective teams.

As soon as it becomes apparent that a case will not result in a fraud penalty, the TL or HIL must ensure that it is either:

- referred to Compliance, if the Interview Under Caution (IUC) has not taken place, or
- closed

It is important that the TL or HIL ensures that the case holding for each investigator is manageable. The number of active cases an investigator can be expected to manage will vary. When considering a reasonable case holding for an investigator the TL or HIL should consider the following:

- the experience of the investigator
- if they have additional duties such as line management responsibility
- the complexity of the cases. For example, a non-compliant employer investigation may take longer to investigate than someone who has failed to declare employment
- if the investigator works full or part time.

An active case is one currently under investigation and excludes those awaiting an overpayment decision or with the Digital Case Management Unit in England and Wales, Central Prosecution Team in Scotland or Crown Prosecution Service.

It is important that a TL or HIL ensures that all necessary cases are referred to the Operational Intelligence Unit (OIU) without delay for intelligence to be gathered. See [Requests for Intelligence Gathering](#).

It is important for the TL or HIL to ensure joint working procedures are followed in all appropriate cases. When an investigation has an impact on another investigative agency such as a Local Authority (LA), Her Majesty's Revenue and Customs (HMRC) or police, a joint investigation should be considered. See [Joint Working](#).

TLs and HILs must ensure that IUCs are legally compliant by carrying out the IUC Quality Assurance Framework (QAF).

The TL or HIL must ensure that no unnecessary delays occur in the investigation. To check on the progress of a case the TL or HIL can execute a query on the Fraud Referral and Intervention Management System (FRAIMS).

If the delay occurs due to reasons outside the control of the investigator, such as extended absence or an unmanageable case holding, the TL or HIL should consider:

- reallocating cases to another investigator
- closing the case, or
- referring the case to Compliance.

These considerations must be made on a case by case basis.

Before submitting a RIP1 form to the Senior Investigations Leader (SIL) for authorisation of surveillance, the TL or HIL must be satisfied that it is necessary and proportionate. For further information, see [Surveillance](#)

Suitable cases must be submitted to the Financial Investigation Unit (FIU) as early as possible during the investigation process. See [Financial Investigations](#).

It is important that the TL or HIL ensures that the advanced warnings procedures are followed ensuring that suitable cases receive maximum publicity. See Publicising Prosecution Outcomes – [Raising Fraud Awareness](#).

Identity cards

TLs or HILs must ensure that all their people involved in the investigation of benefit fraud have an identity card and carry it with them at all times when on duty. See [Fraud Investigator Identity and Authorised Officer Cards](#)

Authorised Officers

Investigators can be authorised to make requests for information from employers under Sections 109B and 109C of the Social Security Administration Act (SSAA) 1992.

The Higher Intelligence Leader (HIL) must ensure that Authorised Officers understand the requirements of the legislation to ensure that only information relevant to the investigation is requested.

Health and safety

When carrying out investigative work, particularly outside the office, the safety of investigators is paramount.

Fraud specific risk assessments should be held by all Counter Fraud Compliance Directorate (CFCD) people and it is the responsibility of managers and their people to abide by the stated control measures. Generic risk assessments must also be considered.

If investigators use their own vehicles while undertaking investigative work such as surveillance or visiting, the TL or HIL authorises protection under the Vehicle Protection Scheme.

For information on all aspects of health and safety, including details of Risk Assessments, see [Health and Safety](#).

Security of equipment

The TL or HIL must ensure that the following equipment is locked in secure accommodation:

- tape recording machines
- video/Digital Versatile Disc (DVD) equipment
- other covert surveillance equipment
- Airwave Service radio terminals.

An equipment register must be set up to record the allocation and movement of:

- official mobile telephones

- laptops. Also see Guidance for CFCD (O) on the use of laptop computers outside official premises on the [CFCD website \(link is external\)](#).
- dictaphones
- Airwave Service radio terminals
- still cameras
- audio-recording machines when transported outside the investigator's home-base
- video and DVD equipment
- other surveillance equipment not mentioned above.

Use of Official and Private User Scheme Vehicles

TLs and HILs must ensure that their people who use Official Vehicles (OV) and Private User Scheme (PUS) vehicles understand and comply with the OV and PUS guidance.

More information can be found on the [Business Travel \(link is external\)](#) website.

Learning and Development

Before undertaking any investigative interviews the TL or HIL must ensure that the investigators have received the relevant learning for handling and calming difficult situations and claimants. This could be a claimant face-to-face event or an earlier version of this module such as Dealing with Potentially Violent Situations.

TLs and HILs must ensure that all their investigators undertake at least the Professionalism in Security (PinS) Blended Learning foundation syllabus to become Accredited Counter Fraud Specialists (ACFS). The blend covers the following subjects:

- legislation
- investigative techniques
- investigative interviewing
- court procedures.

Once investigators have qualified as ACFSs they can carry out the full range of duties for investigators and undertake an advanced level syllabus at the discretion of the TL or HIL.

As the foundation level may take some time, TLs and HILs must take on the role of mentor or may wish to appoint an experienced investigator as a mentor until the new investigator's training has been completed.

TLs and HILs may wish to limit a new investigator's involvement in certain aspects of work, such as taking the lead in an interview under caution or carrying out surveillance, until they have completed the relevant PinS modules.

The TL or HIL should encourage visits for their people to stakeholders who have an impact on fraud work. For example:

- benefit processing sections
- Local Authorities.

The purpose is to enable their people to develop a better understanding of work carried out by other units.

TLs and HILs must ensure that officers using Airwave Radio terminals during operations are aware of and understand the procedures outlined in the [Radio Terminals Code of Practice \(COP\)](#).

Types of fraud

TLs and HILs must ensure the following:

- that they and their people have a clear understanding of the conditions of entitlement in relation to all the benefit offences that are to be investigated and in particular changes that affect one benefit but not another.

The following are examples of this:

- the non-declaration of capital could affect entitlement to Income Support (IS) or Jobseekers Allowance (JSA), Employment Support Allowance (ESA) but not Incapacity Benefit (IB),

Disability Living Allowance (DLA), Personal Independence Payment (PIP) or Attendance Allowance (AA)

- the degree of unrestricted mobility and or reduction in care needs of the claimant affects entitlement to DLA, PIP and AA administered by the Pensions, Disability and Carers Service (PDCS) but not other benefits
 - part-time earnings may affect IS or JSA but not Housing Benefit (HB) and Council Tax Benefit (CTB) (prior to 1 April 2013)
 - when conducting employer compliance investigations, the investigator has a full understanding of the legislation, guidance and policies in relation to this. It is also important that the investigator is aware of the various offences applicable to this type of investigation, as they are different to the normal benefit fraud offences
 - that, apart from those in Counter Fraud Compliance Directorate (CFCD) Criminal Investigations who are responsible for the investigation of identity fraud, if an investigator discovers a suspected identity fraud case it is referred to CFCD Criminal Investigations
 - that they and their people are aware of the police final warning scheme when investigating young people under the age of 18 in England and Wales. This does not apply in Scotland.
- It is important that TLs and HILs ensure that legislation relating to RIPA, Human Rights and Data Protection is not breached when cases are investigated.

In England and Wales, TLs, HILs and investigators must have a full understanding of the Police And Criminal Evidence (PACE) Act and ensure that the provisions of this Act are not breached.

In Scotland, TLs, HILs and investigators must have a full understanding of The Test of Fairness and Scottish legislation such as the Criminal Procedure (Scotland) Act 1995.

Performance Measurement Referrals - High Suspicion Tracking cases

Risk Assurance Division (RAD) Performance Measurement Teams (PM) submit a High Suspicion Tracking (HST) referral using the Fraud Referral Form (FRF) selecting the referral source of **Performance Measure Referral** if a current investigation is established prior to their action or a suspicion of fraud during their action.

The TL or HIL must ensure that on receipt of an HST case, the investigator associates the position **FRM PM SPOC** on the Fraud Referral and Intervention Management System (FRAIMS). This enables the PM to track these cases and ensures that the outcome of the case feeds into Monetary Value of Fraud Error (MVFE) data.

The TL or HIL must ensure that these cases are treated as priority, progressed timeously at all stages and, wherever possible, cleared within a 13 week target. However, if there is insufficient information to support a fraud penalty during the investigation and particularly prior to interview, the case must be transferred to Local Service Compliance.

Fraud penalties

TLs and HILs are responsible for deciding which cases should be submitted to the Crown Prosecution Service (CPS) for consideration of prosecution in accordance with the Department's prosecution policy. This means that the evidence and public interest tests must be considered on each case.

If considered more appropriate the TL or HIL can authorise the offer of a Caution or Administrative Penalty as an alternative to prosecution providing that the relevant criteria are met.

Attending court

All TLs and HILs and their people must have an understanding of court etiquette which must be adhered to if they are required to give oral evidence in court.

Liaison with other parts of DWP business

It is important that the TL and HIL develop a good working relationship with other parts of DWP business where appropriate by:

- attending local management team meetings and network groups

- providing fraud awareness presentations. These are available on the Resource Management portal
- facilitating opportunities for job shadowing
- raising issues around weaknesses and loopholes in the benefit process
- understanding the role and responsibilities of decision makers and form good liaisons with Assessment Sections and Debt Management Centres
- understanding the role of the Crown Prosecution Service in England and Wales, and the Procurator Fiscal in Scotland.

This list is not exhaustive.

Responsibilities specific to CFCD Higher Intelligence Leaders

The Higher Intelligence Leader (HIL) in Counter Fraud Compliance Directorate (CFCD) Criminal Intelligence are required to manage:

- incident management
 - intelligence gathering
 - data analysis and
 - disclosure of departmental information to other organisations such as the police.
- To do this they must ensure that their people comply with the appropriate legislation and departmental policy.

Authorised Officers

Officers in CFCD Criminal Intelligence who have completed the relevant Professionalism in Security (PinS) event can be authorised to request information from financial institutions under Sections 109B (2A) of the Social Security Administration Act (SSAA) 1992, as amended by the Social Security Fraud Act 2001.

The Senior Intelligence Leader (SIL) in CFCD Criminal Intelligence authorises and issues certificates to enable appropriate officers to use 109B powers.

After issuing the certificates, the SIL notifies the appropriate Criminal Intelligence support officer who enters the details of the newly appointed Authorised Officers on the Authorised Officer Database.

The Higher Intelligence Leader (HIL) must ensure that Authorised Officers understand the requirements of the legislation to ensure that only information relevant to the investigation is requested

Responsibilities specific to the Digital Case Management Unit and Central Prosecution Team managers

The Higher Investigations Leader (HIL) of a Digital Case Management Unit (DCMU) in England and Wales manages a team responsible for the development of prosecution files in the agreed format for submission to the Crown Prosecution Service (CPS). This requires liaison with CPS to form a good working relationship.

In Scotland, the HIL manager authorises the preparation of prosecution files and reports in the agreed format for the Procurator Fiscal (PF) ensuring compliance with Scottish legal requirements.

Responsibilities specific to Financial Investigation Unit managers

The Higher Investigations Leader (HIL) of a Financial Investigation Unit (FIU) is responsible for managing an investigative team whose role is to track the proceeds of crime and ensure that a criminal's assets are recovered. To do this the HIL must ensure that they and their people comply with the Proceeds of Crime Act (POCA) 2002.

04 Management Checks

Quality Assurance Framework checks

Purpose

The purpose of the Quality Assurance Framework (QAF) check is to:

- enable a manager to support the development of their people
- evaluate the quality of performance of their people across the full range of their duties
- provide specific examples of good behaviour and skills for Performance and Development System (PDS) purposes
- identify Learning and Development (L&D) needs
- identify and recommend areas for improvement
- ensure compliance with the appropriate legislation and Department for Work and Pension (DWP) and Counter Fraud Compliance Directorate (CFCD) policies

If a QAF identifies a breach in legislation or policy, the Team Leader (TL) or Higher Investigations Leader (HIL) conducts a one to one interview with the person concerned to identify:

- L&D needs
- the need for advice on workload management
- personal or health issues that are affecting the person's work
- areas for improvement

For more information on QAF checks, see [Quality Assurance Framework - Fraud \(link is external\)](#)

Senior Investigations Leader QAF Checks

A Senior Investigations Leader (SIL) may need to carry out the following checks:

- official notebook: if the TL or HIL is directly involved in any operations they would require an official notebook and the SIL would need to carry out the QAF on this
- surveillance: TL or HILs who manage pro-active teams and who work with teams in CFCD Criminal Investigations may take part in surveillance operations in which case a QAF check may be required by the SIL

Team Leader or Higher Investigations Leader QAF Checks

TL or HILs responsible for the management of investigation teams, including CFCD Criminal Investigations teams, are required to carry out various QAF checks quarterly or bi-annually as specified.

QAF checks can be more regular if there is cause for concern, on the following subjects:

Quarterly

- evidence gathering
- official notebooks (N1s)
- case (file) and caseload management
- interview under caution

Bi-annually

- surveillance
- witness interviews

Higher Intelligence Leader QAF checks

Higher Intelligence Leaders (HILs) are responsible for QAF checks on the following subjects:

- incident management
- intelligence gathering
- criminal intelligence analysis
- disclosure to third parties

The minimum frequency for these checks is quarterly, but HILs can carry them out more regularly if there is cause for concern.

05 Features specific to each Quality Assurance Framework check

Evidence Gathering

The following are specific to the Evidence Gathering Quality Assurance Framework (QAF):

- cover all documentation
- ensure that the correct legal gateway was used when gathering the evidence
- ensure that continuity of evidence is maintained
- ensure that all reasonable lines of enquiry are pursued

Official Notebook

The following are specific to the Official Notebook QAF. Ensure:

- quality of completion and general maintenance
- that the storage, security, and issue of the notebooks is compliant with instructions contained in Official Notebooks
- that the recording of observations, fraud drives, employer visits and interviews are legally compliant

Case Management

The following are specific to the Case Management QAF:

- the check must cover the whole process from preparation to closure
- ensure that the processes have been followed
- ensure that any delays in the investigation have been explained
- ensure that the prosecution file has been prepared to the agreed standard as outlined
Prosecution File Preparation

Caseload Management

The Caseload Management QAF supports key work objectives, and its purpose is to:

- ensure that investigator's case holdings are at a manageable level
- check accountability of the cases and any evidence files
- ensure that the cases are progressed correctly and without delay with closure action taken timeously
- ensure that each investigation being undertaken is likely to result in a fraud penalty
- ensure that cases appropriate for Local Service Compliance are transferred without delay

Surveillance

It is necessary for the Team Leader (TL) or Higher Investigations Leader (HIL) to accompany the investigator on a surveillance operation in order to carry out this QAF, but the TL or HIL is there for observation and assessment purposes only and must not take part in the investigation.

The QAF takes account of the whole process from preparation and planning to the outcome of the operation.

Interviews under Caution

The following are specific to the Interviews Under Caution (IUC) QAF:

- this is completed by listening to the IUC working tape
- it can be undertaken either at the fraud penalty/closure stage or immediately following the IUC
- it must cover the full IUC process from preparation and planning to closure
- check that the interviewing, questioning and behaviours are of an acceptable standard and legally compliant

Complete at least one IUC QAF per investigator per quarter.

Witness interviews

This check must cover the whole process from preparation and planning to closure. It is recommended that the TL or HIL accompanies the investigator at the interview to ensure that their interviewing and questioning skills and behaviours are acceptable.

Intelligence gathering

The following are specific to the Intelligence gathering QAF:

- cover the whole process from Referral For Information (RFI) completion
- check compliance with legislation
- check that the Intelligence Gathering Officers (IGO) are actively managing their workloads

Incident management

The following are specific to the Incident Management QAF:

- cover the whole process from receipt of the incident to clearance
- check compliance with security procedures
- check that appropriate incidents have been passed to Criminal Investigations and third parties such as Local Authorities
- cover the whole 'unsolicited post' process from receipt to clearance

Criminal Intelligence Analysis

The following are specific to the Criminal Intelligence Analysis QAF:

- covers the whole process from receipt of the Project Initiation Document, or other request, to analyst's recommendation and report
- evaluate use of correct data sources and analytical techniques
- check reports are completed without delay and are clear and concise
- ensure objective achieved and acceptance of recommendations

Disclosures

The following are specific to the Disclosure QAF:

- covers the full process from receipt of a request to clearance and subsequent secure storage
- check that the disclosure was appropriate and lawful
- check that all information including the thought processes is clearly recorded and all associated paperwork is securely stored

Other Management Checks

Senior Investigations Leader checks

A Senior Investigations Leader (SIL) is required to carry out the following checks:

- United Kingdom (UK) Travel Procedure Check: if their Team Leader (TL) or Higher Investigations Leader (HIL) use a vehicle for operations the UK Travel Procedure check as detailed in TL or HIL checks must be carried out by the SIL
- Airwave Service radio terminals when the SIL undertakes the role of Counter Fraud Compliance Directorate (CFCD) area Radio Terminal Custodian (RTC) they must carry out a check at least six monthly in accordance with the [Code of Practice for Radio Terminals](#). If a physical six monthly check is not possible the RTC must ensure that assurance is obtained in writing from their TL / HILs that all radios are accounted for:
- high value surveillance equipment, for example, Sting equipment
- Performance Assurance random checks

Team Leader or Higher Investigations Leader checks

Other checks required by TL or HILs include the following:

- UK Travel Procedures check: Before an investigator can use a motor vehicle for official business, approval on the [Authorisation to travel form](#) must be obtained from their line manager who must check the investigator's driving licence and ensure

- they have a full current licence valid for the vehicle they will be using
- that there are no periods of disqualification in force
- that the vehicle has a valid MOT certificate and
- that the insurance conditions are satisfied

The check should be repeated at least once per year. For further information, see [Business Travel \(link is external\)](#).

Identity card check, for more information, see [CFCD Identity and Authorised Officer Cards](#).

Airwave Service radio terminals: check to be carried out at least monthly in accordance with the [Code of Practice for Radio Terminals](#). The TL or SIL as a minimum must physically view the radio terminals each six months. If a physical check is not feasible on a monthly basis written assurance must be obtained from the authorised user by the TL or HIL that all radios are accounted for.

TL or HILs should carry out regular checks to ensure that all information relevant to the investigation is correctly recorded in accordance with CPIA 1996, in England and Wales or Test of Fairness, in Scotland. The check is also to ensure that sensitive material is identified and recorded.

The TL or HIL may also carry out other checks such as: on vehicle licence enquiries, see [Obtaining Vehicle Keeper Details](#) and MR303s, if used.

Before authorising travelling expenses the TL or HIL must ensure that all the appropriate checks have been completed.

Discrepancies discovered in the driving licence or insurance check could result in the investigator being unable to drive a vehicle while carrying out investigative duties.

05 Complaints

Managers' responsibilities

1. If a complaint is received by Counter Fraud Compliance Directorate (CFCD) people they should try to resolve the matter if possible.
2. If they are unable to do this, or the complainant is not satisfied with their response, the matter must be referred to the Team Leader (TL) / Higher Investigations Leader (HIL) or Senior Investigator Leader (SIL), depending on the nature of the complaint.
3. If the complainant is still not satisfied with the response they must be advised that they can contact the District Manager by letter, email or in writing, which would then be responsible for the response.
4. In all cases a full response should be sent to the complainant within 15 working days. For further information see [National Feedback Handling Guidance \(link is external\)](#).

Complaints received by CFCD Support Team

5. If complaints are received by Counter Fraud Compliance Directorate (CFCD) Business Support that have not been sent via the Team Leader (TL) / Higher Investigations Leader (HIL), CFCD Business Support will:

- log its receipt
 - fax/e-mail a copy of it to the TL / HIL
 - send the original notification to the TL / HIL
 - issue a letter to the complainant advising them of the course of action taken, and
 - B/F for receipt of the reply from the TL / HIL.
6. On receipt of the complaint in the CFCD office, normal action to deal with it should be followed.
 7. A copy of the response should be forwarded to CFCD Business Support in case further action is required.

8. If the TL / HIL has responded to the initial complaint, and a further complaint is received, CFCD Business Support will:

- log receipt of it
- request copies of the correspondence relating to it
- send an acknowledgement of its receipt to the complainant within 10 working days
- seek legal advice, where appropriate, before replying in full and
- forward a copy of the response to the TL / HIL.

Complaints arising from Authorised Officer enquiries

9. An information leaflet ([AO2 \(link is external\)](#)), backed by a Code of Practice, is issued to employers when requests for information are made using powers under Sections 109B and C of the Social Security Administration Act (SSAA)1992. It advises them that they may make an official complaint if they consider the request or the manner in which it was made to be unreasonable.

10. Complaints are usually made to the Team Leader (TL) / Higher Intelligence Leader (HIL).

11. If the complaint is more serious, employers are advised to direct it to the Group Manager (GM) / National Investigation Leader (NIL).

12. For complaints concerning CFCD investigators, employers are further advised that if they are unhappy with the response they receive, they may write to Counter Fraud Compliance Directorate (CFCD) Business Support who will investigate the matter.

13. For further information, see [Secretary of State Authorisations \(s109\)](#).

14. Wherever possible, complaints about the use of Section 109B, or C powers should be cleared within seven working days.

Fraud Drives

00 Introduction

Introduction

This section deals with how to plan and justify a fraud drive and how to conduct and manage the process.

The rules for fraud drives explained in this section are designed to:

- ensure compliance with the relevant legislation
- support the Department for Work and Pensions (DWP) commitments to Ministers
- respect the rights of individuals
- ensure that we fulfil the DWP duty to protect public funds in a reasonable and responsible way.

Proactive fraud investigations

The purpose of investigating fraud proactively is to:

- discover fraud that is not detected by the reactive approach to single allegations or queries
 - uncover fraud not likely to be detected by other measures such as:
 - Compliance
 - Generalised Matching Service (GMS)
 - Housing Benefit Matching Service (HBMS)
- test locally held beliefs of the predominance of fraud in particular areas, such as **[Redacted]**
- act as a deterrent to non-compliant employers, landlords or tenants and any other third party that may be involved.

Publicity

Publicity can be one of the most valuable results of a fraud drive. One of the best deterrents to fraud is the fear of detection.

Consider whether the fraud drive will attract:

- media publicity - local or national
- criticism of the department or its Ministers
- criticism of the Local Authority (LA) or its Members
- publicity in sensitive benefit areas. For example, Disability Living Allowance (DLA) and Personal Independence Payment (PIP).

When it is established that the fraud drive being conducted may receive media interest, at a stage prior to when cases are being considered for prosecution, the Media Notice must be sent to the appropriate nominated contacts. For more information, see [Media Notices](#).

01 Planning a Fraud Drive

Planning

Drives need careful planning and should not be too large. It is important to make full use of clerical support staff for non-specialist research. Remember to estimate the staff time the drive is likely to involve and over what period.

Carefully consider whether it may be necessary to give up or postpone other fraud work to carry out the drive.

To avoid duplication and to promote joint working it is important that, when applicable, Department for Work and Pensions (DWP) and Local Authority (LA) investigators liaise when planning a fraud drive.

Where it is felt necessary, it may also be useful to liaise with Other Government Departments (OGDs), such as Her Majesty's Revenue and Customs (HMRC).

Experience

If there is no local experience of conducting a fraud drive, consider:

- discussing the drive with neighbouring CFCD areas and authorities
- conducting a limited pilot exercise, assessing and learning from the results before attempting anything more ambitious.

Additional resources

If additional resources are required, consider contacting neighbouring:

- LA investigation teams
- CFCD teams

Considerations

The planning of a successful fraud drive includes specific considerations. Discuss these and the fraud drive's primary objective with the Team Leader (TL) or Higher Investigations Leader (HIL) before deciding to proceed. The primary objective could be to discourage fraudulent claims to benefit, or it could be linked to publicity.

When deciding if a fraud drive is appropriate, consider whether:

- the drive will be cost effective – will the cost of conducting the drive outweigh the benefits of the fraud likely to be detected?
- previous or current experience of fraudulent activities suggests a target group or business type as the subject for the drive
- there is historical evidence from previous fraud drives
- the seriousness of the suspected fraud suggests a drive
- press reports or advertisements suggest a subject for a drive
- the drive should be conducted as a joint drive with other departments or agencies which may have an interest in the subject group. For example, Her Majesty's Revenue and Customs (HMRC), UK Visas and Immigration and/or the police
- there are sufficient grounds of suspicion to justify conducting a drive, also see Justification.

It may be necessary to liaise with other business areas within the Department for Work and Pensions (DWP), particularly if the drive may increase requests for documents and/or decision making for that business area. For example, considering a drive that may result in a high number of Pensions, Disability and Carers Service (PDCS) benefit claimants being identified.

Set a start date, and an actual or approximate end date for the fraud drive. Fraud drives should normally be conducted over a limited period and the initial information gathering process. For example, obtaining the list of employees should be completed within a maximum period of six weeks.

If an extension of the information gathering process of over six weeks is required, clearly document the reason for the extension in the 'estimated period of the drive' box on the fraud drive Risk Analysis Pro-Forma (RM2). ([link is external](#)) The TL or HIL will consider the RM2 and, if agreed, will authorise and annotate the RM2 with an agreed extension period. The process of completing and the TL or HIL authorising the RM2 are performed without using the Fraud Referral and Intervention Management System (FRAIMS). Once the TL or HIL has agreed to the extension, the RM2 must be attached to the master file in FRAIMS. See [FRAIMS guidance - Master file](#).

It is acknowledged that individual cases resulting from the drive may continue to be investigated for a considerably longer period. If a further extension is needed, seek advice from the Counter Fraud Compliance Directorate Business Partner Team.

Close the fraud drive when action on all cases, raised as a result of the drive, have been completed.

Justification

Make sure there are sufficient reasonable grounds to conduct a fraud drive. Failure to do so may prevent fraud penalties being taken against those who are caught. More importantly, it may result in the removal of the Secretary of State Authorisation to use Section 109B and 109C powers, which allow Department for Work and Pensions (DWP) or local authorities (LAs) to conduct fraud drives.

This is because investigators may have breached:

- sections 109B and 109C of the Social Security Administration Act 1992
- the Data Protection Act 2018
- the Human Rights Act 1998.

Complete the [RM2 \(link is external\)](#) form when planning a fraud drive. The investigator, Team Leader or Higher Investigations Leader may wish to add to the list of details on the form. Attach the form to the Fraud Referral and Intervention Management System (FRAIMS). See: [FRAIMS guidance - Master file](#).

[RM3 \(link is external\)](#) is a fraud drive checklist, which must be started when a fraud drive is being planned. Complete the relevant entries on the checklist at the time each action or set of actions has been carried out and when the fraud drive has ended. The checklist must be attached to the master file in FRAIMS

Information received

Investigators may receive information that indicates that fraud is being committed by:

- un-named employees or categories of employee within a firm
- a particular landlord or tenants in certain properties.

This information could come from members of the public who have written to or telephoned the Department for Work and Pensions (DWP) or Local Authority (LA), from colleagues, or following the receipt of an intelligence based referral from the Counter Fraud Compliance Directorate (CFCD) Criminal Intelligence Criminal Proactive Desk.

Retain this information in the master file. See [FRAIMS guidance - Master file](#).

Suspicion arising from a detected case

The circumstances of a detected case or cases may suggest that the fraud investigated is not an isolated incident. For instance, a claimant who admits to working and receiving benefit may say or imply that co-workers in the same firm or area were or are committing the same fraud.

Retain all information obtained on file in chronological order. Include:

- a report of activities carried out to support or confirm the suspicions, including a record of any telephone calls made or received
- cross-references to the detected case or cases involved
- any evidence connected with the suspicion, such as letters or copies of statements.

Local intelligence and experience

Local intelligence and experience may indicate that fraud is likely to be found in a particular firm, industry or other area. This could include the study of results of past fraud drives conducted by either the Department for Work and Pensions (DWP) or Local Authorities (LAs).

Exercise care to ensure that there are reasonable grounds to suspect fraudulent activity is being carried out at the time investigators plan to conduct the drive. For example, known claimants have been seen getting into vans known to be used by a gang master. See also Justification.

Collate, as part of the reasons for the drive, information such as:

- telephone calls made or received
- conversations with other people which arouse suspicion
- any surveillance that has been carried out, the reason for that surveillance, the result, a copy of all the appropriate Regulation of Investigatory Powers (RIP) forms. **Note:** Do not perform surveillance to support the risk assessment but any suspicion of fraud that will support the need for a fraud drive must be included in the risk assessment. For example, surveillance carried out on one investigation points to a separate type of fraud being committed
- physical evidence. For example: letters, record of videotape reference numbers, location and a summary of its contents.

National fraud drives

Where it is known that a particular type of trade, industry or other area is subject to fraud on a national basis, it is possible to use that knowledge to support a fraud drive locally.

For example: A number of Counter Fraud Compliance Directorate (CFCD) areas may have carried out fraud drives on a particular local branch of a national cleaning company that indicate that fraud is prevalent in that company. This information can be used to justify conducting a fraud drive on the same company locally.

Where there is little or no local intelligence of fraud in an industry / company or other area but there is national intelligence that fraud is prevalent, the investigator should aim to obtain some further evidence of that fraud in the locality before conducting a fraud drive. Minimal local intelligence can be supported by the national intelligence to justify a full fraud drive.

In order to use national intelligence of fraud to provide grounds to conduct a fraud drive locally, evidence must be obtained. For example; documentary evidence of the scale of the fraud on a national level. Never base a fraud drive on hearsay.

In cases where the only intelligence used is nationally based, a limited pilot exercise should be conducted in order to build up local evidence to support carrying out further drives.

If the national fraud drive results indicate only a low level of fraud overall, no attempt should be made to use this on its own as justification for a fraud drive on that industry or company or other area in the surrounding locality.

It can be used to support local intelligence to justify a fraud drive but if the local evidence also shows only a low level of fraud then a limited pilot exercise should be carried out first. Any evidence uncovered can then be used to support further drives.

Evidence of other Counter Fraud Compliance Directorate (CFCD) area's fraud drives should be held on the master file and referred to in the risk-assessment on the [RM2 form \(link is external\)](#).

Fraud drives using Section 109B or 109C Powers

The procedures for obtaining information from an employer or landlord are contained in [Secretary of State's Authorisations](#). Ensure these procedures are followed. Request information by issuing the AO8 to the employer, the AO10EQ1 should be issued to obtain information about individual claimants.

Authorised Officers should **never** write to or email an employer or landlord who is suspected of being collusive to request a list of employees or tenants.

If an employer or landlord is approached, under the methodology section of the RM2 form, include the reasons why.

Claimant based fraud drives

Where investigation activity or research suggests fraud from a particular claimant group a risk analysis must be conducted to establish that there are reasonable grounds for conducting a fraud drive within that group. See Justification.

Examples of claimant based fraud drives may include:

[Redacted]

[Redacted]

Department for Work and Pensions (DWP) will not carry out a fraud drive and request bulk data quoting S29(3).

Where Counter Fraud Compliance Directorate (CFCD) are considering requesting data quoting S29 (3) on a bulk basis due to a lack of a recognisable legal gateway, advice should be sought from Service Design and Management Fraud & Error Portfolio.

Direct requests for advice to:

JCP PPD Point Of Contact **[Redacted]**

Service Design and Management Fraud & Error Portfolio will look at the following:

Viability and necessity of conducting any bulk data requests taking into account evidence supporting the need to obtain this data for the purposes of fraud detection.

Other potential solutions to obtain this information, for example: existing legal gateways such as Her Majesty's Revenue and Custom (HMRC) obtaining the required information from Local Authorities (Las) under any existing gateways and DWP using existing legislative gateway to obtain the information from HMRC.

Where no legal gateway exists will explore the possibility of establishing new or extending current legal gateways with strategy colleagues

02 Master files

Background

1. The management of pro-active operations, such as fraud drives or operations is performed through FRAIMS.

2. A master file is produced, see [FRAIMS guidance - Master file](#), and records for individuals identified as part of the proactive operation are created by:

- inputting a Fraud Referral Form (FRF) – where the National Insurance Number (NINo) and contact record are identified for the individual, see [FRAIMS guidance – Complete FRF](#)
- adding a 'Suspect' record directly onto the master file – where it is not possible to identify a contact record or NINo, see [FRAIMS guidance – Create a suspect record](#).

3. Any physical evidence, for example, letters making allegations and providing information connected with the drive should be retained on the clerical master file.

4. Fully record all telephone conversations from which Counter Fraud Compliance Directorate (CFCD) staff obtain or receive information connected with the drive and retain these records on FRAIMS, see [FRAIMS guidance – Additional Contact](#).

5. All evidence relating to the individual case should be on the individual file and each file associated with the drive should be cross-referenced with the master file, see [FRAIMS guidance – Linking Cases](#).

Information to include in the master file

6. Information to be held on the master file when it is first raised should be collated on the [RM2 \(link is external\)](#) as follows:

Name of fraud drive

- each drive should have its own unique reference
- avoid the use of company names, as it is a type of employment that is targeted, for example cleaners, and not the company.

Purpose of drive

- checking the existence of fraudulent benefit claims amongst current employees, or certain property group or certain claimant groups.

Details of the allegations

- letters, phone calls, reports and referrals received.

Local knowledge used

- cross-reference to any previous fraud drives conducted on the same subject and attach any closure reports from the master files, including the FRAIMS case numbers
- list any locally known facts about the subject or include evidence of the prevalence of fraud in that particular type of employment/area or any other similar grounds
- include any reports made by officers of the department or Local Authority (LA) about, for example, seeing claimants signing on in working clothes
- copies of any relevant press reports or advertisements.

Observations conducted

- list the reason for any observations already undertaken, including any that may have established the subject, with a copy of the appropriate RIP forms.

Note: Surveillance must not be performed to support the risk assessment but any suspicion of fraud that will support the need for a fraud drive must be included in the risk assessment.

Trade/business/group

- name and address of the place or type of employment
- name of landlord or types of properties
- name of claimant group.

Scale of operation

- details of the estimated size of the workforce, number of sites
- addresses of properties the landlord is responsible for, or which will be subjected
- expected number of claimants within the selected group.

Is collusion suspected?

- yes/no. Include any other relevant comments.

Methodology

- how will the subject be contacted, for example, whether by letter or by visit, whether notified or un-notified and reason for method used
- whether any surveillance are planned – include an unauthorised version of the RIP1 to prepare for forwarding to the Authorising Officer
- where and how interviews/visits will be conducted
- what information the subject will be asked for.

Estimated period of the drive

- record when the drive activity will start and finish and any key dates during the period of the drive. Generally, fraud drives are intended to act as a short, sharp focus on a particular area of possible abuse.

Other departments/agencies involved

- list any other department or outside body who will be participating in the drive and whether the police will be present. Give reasons for the presence of the outside body, for example, what their interest in the subject is, what they hope to achieve, etcetera.

Resources to be used

- include resources; numbers, grades and overtime requirements, etcetera, vehicles and how they will be deployed, any other special equipment for example camcorders, to be used
- include the resources being used by any other department/agencies, if known.

Reasonable and proportionate

- give reasons of why the drive is required
- if the drive is into only certain sectors of the workforce explain how the request will restrict information received.

Adverse publicity

- list any known issues which might lead to the risk of adverse publicity for example; a drive taking place in a high profile Member of Parliament's constituency or similar drives in the past have received adverse publicity.

Health & safety

- list how the health and safety of everyone involved in the fraud drive will be maintained, particularly where the drive is to be conducted by visit
- include details of any safety equipment to be used, hazards which may be encountered at the visit and plans for the management of such hazards
- record if local police support will be requested at the time of the visit and arrangements made.

Authorisation and recording of the master file

7. Once the above information has been collated, the master file risk analysis pro-forma must be authorised by the Team Leader (TL) / Higher Investigations Leader (HIL) or their nominated representative, before the drive commences.

8. Once approval has been obtained, the FRAIMS user or FRAIMS Incidents and Analysis user creates the master file on FRAIMS, see [FRAIMS guidance - Master file](#).

9. Once the FRAIMS master file case has been created and the [RM2 \(link is external\)](#) attached, the Counter Fraud Compliance Directorate (CFCD) Criminal Intelligence, Criminal Desk Single Points of Contacts (SPOC) must be given access to the master file case on FRAIMS, see [FRAIMS guidance – Associating a colleague to a case](#).

Updating the master file

10. The master file should be updated during the course of the fraud drive with any relevant information so it is a full overall record of the fraud drive.

03 Conducting the fraud drive

Making fraud drive enquiries

By letter

Request for Bulk Data in fraud drives must only be made from data owners where the Department has specific powers to require the data owner to provide the information requested such as by use of Section 109 powers.

Requests for bulk data must not be made quoting the Data Protection Act (DPA) exemptions such as Data Protection Act 2018 paragraph 2(1) of Schedule 2 as the exemptions can only apply in specific individual cases where it is known the exemptions applies. Requests for bulk data will always result in provision of information where the exemptions do not apply.

When conducting drives by letter record on Fraud Referral and Intervention Management System (FRAIMS):

[Redacted]

See [FRAIMS guidance – Employer or Landlord Information Request](#).

By visit to employers or landlords

When conducting drives by visit to employers or landlords record on FRAIMS:

[Redacted]

By visit in claimant based cases

When conducting drives by visit in claimant based cases record on FRAIMS:

- the name and address of each claimant visited and whether the visit was notified or un-notified and, if notified the date on which the appointment letter was issued
- details of all officers conducting the visit
- details of when the claimant was approached and their reaction, for example, their general behaviour and was any necessary information easily obtained.

See [FRAIMS guidance – Response Received](#).

Removal of documents

Documents can only be removed with the consent of the employer or landlord as Counter Fraud Compliance Directorate investigators do not have the power of seizure.

Always provide a receipt for any documents removed and record on Fraud Referral and Intervention Management System (FRAIMS). Record the date and the manner in which the documents were returned, for example, by post or in person.

For more information, see Secretary of State's Authorisations – [Obtaining Documentary Evidence](#).

Customer Information System search

Once the details are received from the employer or landlord undertake a manual Customer Information System (CIS) check. Create an activity on the master file to record this check, see [FRAIMS guidance – CIS check \(link is external\)](#).
[Redacted] see [FRAIMS guidance – Complete FRF \(link is external\)](#).

Delete any names remaining on the list where the check has revealed no Department for Work and Pensions (DWP) paid benefit immediately. Recording details of the fraud drive on Fraud Referral and Intervention Management Systems

Record on Fraud Referral and Intervention Management Systems (FRAIMS) as much information as possible about interviews conducted with the employer, employees, landlords, claimants or any other person whether or not these aroused further suspicions. Record on FRAIMS details of any documents that have been removed from the employer or landlord's premises or other premises where the relevant documents were held, in the latter case, include the address and nature, for example, accountant's office.

Record on FRAIMS details of any surveillance conducted together with a copy of the relevant surveillance authorisation and cancellation forms.

Record on FRAIMS the names, addresses and reference numbers of people on whom a case has been opened as a result of the drive. The individual fraud files should be cross-referenced to the master file, see [FRAIMS guidance – Linking cases](#).

Record on FRAIMS any action taken with an outside body including:

[Redacted]

04 Completing the Fraud Drive

Action on completing a fraud drive

1. Once the fraud drive is complete, complete the Summary and Closure report, including:

- the number of records checked
 - the number of records found resulting in a Monetary Value Adjustment (MVA)
 - MVA/Weekly Incorrect Benefit (WIB) and/or overpayment
 - the number of cases that resulted in a fraud penalty and what that fraud penalty was. Note: The fact that the fraud was detected as a result of a fraud drive does not render a case automatically suitable for prosecution
 - the resources used including people, vehicles, postage and any other relevant costs
 - any difficulties encountered and what solutions were applied
 - any procedural weaknesses revealed by the drive
 - an opinion on whether another drive is worthwhile and if so, when.
2. Once completed the Summary and Closure report must be attached to an activity before the master file is closed, see [FRAIMS guidance – Fraud Drive Summary and Closure Report](#)
3. The Counter Fraud Compliance Directorate (CFCD) Criminal Intelligence Criminal Desk Single Point of Contact (SPOC) must not be removed from the FRAIMS master file case when it is closed

Management system closure report

4. In order to close the master file, the following information should be recorded:

- the name/code name of the fraud drive
- the name of the drive officer
- whether or not the drive was on a collusive employer/landlord
- the file number, in collusive employer/landlord cases only

- the type of business/claimant group involved
 - the start and end dates of the drive
 - a brief report of the exercise
 - any savings attributable to another government department
 - a list of the fraud referrals arising from the drive.
5. In order to close the master file, follow the process as if you are closing a fraud case, see [FRAIMS guidance – Closing a Case](#).

Guide to types of cases for Serious and Organised Crime and Investigations

All cases will be considered on their merit and routed accordingly, however, further checks may indicate a requirement to re-route the referral. Any cases re-routed must contain details of why re-routing is appropriate.

	Offence Type	Initial Route	Central Criminal Investigation	Local Service Investigation
1	Abroad Fraud (AF): Abroad Fraud	Abroad Fraud Triage [Redacted] determine appropriate route	3rd Party involvement and/or undeclared property.	All other cases as determined by AF Triage
2	Employer assisting Benefit Fraud Employer Investigations		[Redacted]	Allegations relating to single customer or employee

3	HMRC Tax Credit Joint Working with HMRC		[Redacted]	Allegations relating to single customer or employee
4	Housing Benefit Landlords/Tenants Landlord & Tenant investigations		[Redacted]	All other cases
5	Human Trafficking/Modern Slavery Indicators of Modern Slavery/Human Trafficking (link is external)		[Redacted]	N/A
6	Identity Fraud Identity Fraud		[Redacted]	Claim to benefit in own name whilst using an assumed name for employment
7	Internal Fraud Benefit fraud with alleged staff involvement	Internal Audit & Investigations Inbox 99990734 FIS(I) Sensitive In-box, 9999AM12 for further action or closure	[Redacted]	Sensitive cases allocated to CFCD Nominated Officer
8	Joint Working with Counter Terrorist Branch		Any case that makes reference to terrorism or national security.	N/A
9	Money Laundering		[Redacted]	N/A

10	Protecting the NINo Gateway See Identity Fraud		[Redacted]	See Identity Fraud
11	Technology Enabled Fraud (Cyber Fraud)		[Redacted]	N/A
12	Undeclared Capital/ Income Capital Investigations		[Redacted]	Estimated assets total more than £16,000 and less than £100,000 at outset of Investigation.
13	N.B. people involved in fraud against DWP may not have NINOs, or benefit claims in their own name		These cases should be referred to SOC.	

This list is not exhaustive and new types of fraud are regularly being identified

To transfer a FRAIMs case see [Transferring a case](#)

Health and Safety

00 Introduction

1. Health and Safety (H&S) is the responsibility of the individual, managers and the organisation. Counter Fraud & Compliance Directorate investigations cover four main areas of work where consideration for the H&S of staff needs to be addressed. These are:

- the office
- visiting
- joint initiatives and
- surveillance.

Keeping safe

2. Investigators conducting duties outside of the office should ensure they are compliant with Counter Fraud & Compliance Directorate (CFCD) [Keeping Safe \(link is external\)](#) instructions.

3. The Health and Safety at Work Act 1974 states that everyone has a legal duty to uphold certain standards of health, safety and welfare. This duty applies to:

- employers
- employees
- self-employed people
- suppliers and importers and
- controllers of premises.
- list is not exhaustive.

Civil Law

4. Under Civil Law, employers have a duty to their employees to provide a reasonable standard of care. If a person is injured at work and feels it is the employer's fault, the employee may be able to take the employer to court and sue for damages.

Criminal Law

5. In the area of occupational health and safety, it is the Health and Safety (H&S) Executive Inspectors and Local Authority (LA) Environmental Officers who can prosecute companies and individuals who break H&S laws

01 Department for work and pensions

Responsibilities

1. As employers, the Department for Work and Pensions (DWP) has a statutory duty to ensure as far as is reasonably practicable the health, safety and welfare of staff at work.

2. This includes:

- making workplaces safe and without risk to health
- providing adequate welfare facilities
- providing the relevant
 - information
 - instruction
 - training
 - supervision

3. To meet these responsibilities, the DWP produces a Health and Safety (H&S) policy statement and makes it available to all employees. This outlines the legal requirements regarding the:

- reporting of certain injuries and accidents to the appropriate authorities
- reporting of infectious diseases and dangerous occurrences to the appropriate authorities
- provision of adequate first aid facilities

- consultation of H&S representatives appointed by the Trade Unions, about matters affecting the H&S of employees

New and expectant mothers

4. Management of Health and Safety (H&S) at Work regulations requires that employers take particular account of risks to new and expectant mothers. The definition is an employee who:

- is pregnant
- has given birth within the last six months
- is breast-feeding

5. For further information, see the Health and Safety guidance on [facilities for pregnant women and nursing mothers](#).

6. If you are, pregnant you should inform their employer in writing as early as possible into the pregnancy and a [New and Expectant Mothers Risk Assessment](#) must be carried out as soon as practically possible.

7. It is particularly important that staff and employers are familiar with the information provided within [Items treated with Ninhydrin](#). Do not expose new and expectant mothers to items treated with Ninhydrin.

Office environment

8. DWP has a statutory duty to ensure that equipment, procedures and surroundings are suited to the individual needs of staff. This can result in reducing the likelihood of work related:

- upper limb disorders
- back injury
- muscle injury
- eyestrain
- headache
- stress
- fatigue

9. For further information, see the generic H&S guidance [Office Environment](#).

Portable appliance testing

10. The Electricity at Work Regulations 1989 requires that precautions be taken to prevent risk of death or personal injury from electricity in the work environment.

11. Team Leaders (TL) or Higher Investigations Leaders (HIL) should ensure that all relevant investigative equipment is available for testing. If the TL or HIL becomes aware that an appliance requires testing, arrangements must be made for the testing to be carried out, via the building's facilities manager.

12. A portable electric appliance any item of electrical equipment connected to mains supply by socket and flexible cable. The type of equipment usually used by investigators that needs testing could include:

- video equipment
- laptop and palmtop computers
- all battery chargers
- interview under caution tape or audio recording machines
- transcribers
- stills printer or
- answer machines

This list is not exhaustive.

Protection from infectious diseases

13. DWP fraud staff that come into contact with someone who has a notifiable infectious disease should follow the instructions in [Communicable Diseases](#).

14. DWP (CFCD) staff may arrange for a series of inoculations against some of these diseases but should read all relevant [risk assessments](#) first.

Health and Safety representative

15. Health and Safety (H&S) representatives have responsibilities under the Safety Representatives and Safety Committee Regulations 1977 to:

- make periodic inspections of the workplace
- investigate complaints concerning
 - health
 - safety
 - welfare at work

Staff

16. All staff working for Department for Work and Pensions (DWP) have a responsibility to:

- take reasonable care of their own health and safety and that of those others who may be affected by their actions
- co-operate with DWP on health and safety matters
- not interfere with or misuse anything provided for their health, safety and welfare
- bring any health and safety problems within their work area, office or building to the attention of their line manager

17. There are several generic risk assessments that all staff working for Jobcentre Plus must adhere to, for information and guidance see the [HSD Risk Assessment home page](#).

18. There are also agreed risk assessments that cover tasks specifically carried out by Counter Fraud and Compliance Directorate (CFCD) staff. For details of these, see Introduction to CFCD Risk Assessments.

19. If an employee's actions cause someone to have an accident, the employee can be held responsible and prosecuted.

Reporting of accidents and workplace health issues

20. Staff must report all accidents, near misses, dangerous occurrences as well as any workplace health issues whilst on duty if required. Including incidents that occur outside the officer's normal work place, to their line manager. Even if they appear to be trivial, in accordance with DWP policy. You must follow procedures under [Health and Safety](#) guidance.

21. The line manager must maintain a control record [AR2](#).

02 Office activities

Protection against personal violence and abuse

Actions to be taken prior to all interviews

1. Prior to any interview the investigator should:

- have all relevant documents/information to hand
- consider the need for a second officer to be in attendance
- clearly label any documentation with the appropriate markings
- check the computer system to ascertain whether any Potentially Violent (PV) markings are shown against the individual. Only the initial screen should be accessed for this purpose as access to other information such as benefit details could breach Data Protection Act 2018 (DPA) when the interviewee is not the claimant.

2. If there is a PV marking against an individual in order to check the background before deciding what action/precautions to take, such as interviewing in a screen room, the investigator should consult with the officer responsible for maintaining the Unacceptable Claimant/Customer Behaviour record in their office. For further information see [Unacceptable Customer Behaviour](#)

3. It is also important that the procedures in the Local Incident Management Plan (LIMP) are followed see [Local Management Plans and Banned Customers](#).

4. Do not interview a person who appears to be under the influence of drugs or alcohol
5. Be polite and tactful to avoid angry or aggressive behaviour from the interviewee. If the interviewee shows any sign of becoming aggressive or violent, terminate the interview and, if appropriate, call for assistance.

Actions specific to office interviews

6. In addition to the actions required prior to any interview whether conducted in the office or at another venue the following actions are also required prior to office interviews:

- check the need for and the availability of screened interview facilities. If unavailable, consider using an alternative site, but remember that payment of expenses may be incurred
- ensure that there are no objects in the interview room that may possibly be used as a weapon. If this is not possible, place them out of reach to minimise the risk and
- do not keep interviewees waiting - if necessary explain any unforeseen delays to the interviewee.

7. When the interview has ended, accompany the interviewee out of the office.

Unacceptable Claimant or Customer Behaviour

8. A lone interviewer must never interview a known potentially violent (PV) person.

9. There is always a possibility that a claimant's behaviour may become abusive or threatening. They may also attempt to assault an officer or damage property or equipment.

10. It is important that any of these instances are recorded and reported correctly to protect any member of staff who may come into contact with the claimant in the future.

11. Guidance on disclosure and retention of information can be found in the Data Protection Manual. This also explains the business requirement to record PV markings, in accordance with the Data Protection Act (DPA) 2018 regulations.

12. The procedures for reporting such instances and registering persons as PV can be found in [Unacceptable Customer and Claimant Behaviour \(link is external\)](#).

13. The Department for Work and Pensions (DWP) supports any member of staff who, despite following all current instructions, is subjected to:

- assault or personal injury
- serious threats or
- damage to their personal property as a result of their work
- the use of video or audio recording devices against their permission.

14. For DWP this support may include the services of the [Employee Assistance Programme provided by Right Corecare](#) and/or Crown Prosecution Service.

Reasonable force

15. If an investigator needs to defend themselves, they have the legal right to use 'reasonable force'. This means that the force used is in comparison to the force received, or threatened to be received. The use of excessive force will not be condoned and may result in arrest and prosecution. It is essential that before force is used against an individual the officer has taken steps to avoid physical confrontation. Using force to defend yourself must be the last resort.

Abusive telephone calls

16. If an abusive telephone call is received, the officer should:

- stay calm
- not enter into an argument
- try to placate the angry caller and
- take as many details as possible without being intrusive.

17. The officer may need to remind the caller that they are still under caution if appropriate

18. If the caller uses threats or foul language, calmly terminate the call and consider whether [Unacceptable Customer and Claimant Behaviour \(link is external\)](#) action is required.

Local Incident Management Plan and Banned Claimant or Customers

19. In all offices where there is face-to-face contact with claimants the District Manager and the Management Team must ensure that a package of control measures is in place. The purpose of the Local Incident Management Plan (LIMP) is to ensure that these control measures work in a particular office.

20. It is important that Team Leader (TL) / Higher Investigations Leader (HIL) liaise with their Jobcentre Plus counterparts in offices where Counter Fraud and Compliance Directorate (CFCD) interviews are to take place to ensure they have sight of LIMPs and are regularly updated of details of banned claimants/customers in the District.

21. For further information about LIMPs, see [Local Incident Management Plan - Guidance Notes \(link is external\)](#).

03 Activities outside the office

Interviewing outside the office

1. The procedures outlined in the following paragraphs are the minimum standards that must be adhered to by Counter Fraud Compliance Directorate (CFCD) staff.

2. When an interview is conducted out of the office, the investigator must consider any potential risk including those associated with:

- [unacceptable behaviour](#)
- areas considered high risk, as contained in local office list
- out of hours visiting and
- carrying and transporting equipment.

3. Where required, such visits should be accompanied. If in doubt about any of the above, investigators should contact their manager.

4. Any person seen by an investigator in an official capacity needs assuring of the identity of that investigator. This must be done by the investigator showing their officially approved identity card.

5. When carrying out visits, officers must leave a list of addresses to be visited. This should include:

- claimant's details, including full name, address and National Insurance Number (NINo)
- file number
- estimated time of arrival and duration of each visit
- estimated times of contact with the office/Manager
- contact telephone number and
- estimated time of return to office/home.

6. Investigators must notify the office before conducting any additional visits.

7. Investigators must ensure that arrangements are in place to notify their manager/colleagues at set times during and on completion of their visits when they have returned to the office/home.

8. Managers must ensure that in the event of no contact being received from investigators, procedures are in place to establish their whereabouts and safety

Potentially aggressive situation whilst visiting

When investigators are carrying out an enquiry/interview out of the office and they suspect that the situation is becoming potentially aggressive, they should attempt to terminate the interview and leave. If this is not possible, the investigator should telephone the office and using a predetermined phrase or code, inform the office/nominated contact point that they require assistance.

10. It is recommended that investigators' mobile phones have pre-registered numbers allowing quick dial facility.

11. Should the investigator feel that they are in immediate danger, they should attempt to leave and telephone the police.

12. The way in which investigative staff are trained and their professional approach when dealing with suspected benefit offences, goes a long way to reducing the risk of a physical attack.

13. In most Potentially Aggressive Situation (PAS), effective communication can prevent the situation from escalating. When dealing with these types of situations it is important to:

- stay calm
- be polite
- not raise your voice
- keep good eye contact with the other party
- maintain a safe distance from the aggressor, if possible and
- be aware of the surroundings:
 - look for hazards that may cause injury
 - identify a safe haven if needed, for example, another room to take refuge in to allow time to summon assistance
 - identify an escape route, for example, a door or window; try to ensure that there is a clear route to the exit and
 - look out for potential objects for protection, for example, a chair to shield blows.

14. There have been occasions when investigation staff have entered a property and the occupier then locks the door. If this happens politely request that the door is unlocked. If the investigator is unsure of their safety, they should attempt to leave immediately.

Fraud drives and Joint initiatives

15. When carrying out fraud drives and joint initiatives, potential Health and Safety (H&S) issues regarding:

- the type of initiative being carried out
 - any necessary protective clothing and
 - any necessary equipment
- must be considered and detailed in any briefing.

16. Careful planning of such operations will not include a separate Counter Fraud and Compliance Directorate (CFCD) risk assessment of the potential safety issues, instructions will be obtained from the police/lead agency in the initiative as they will be responsible for ensuring a safe system of work. However, the Team Leader (TL) / Higher Investigations Leader (HIL) should be satisfied that any risks have been considered by the lead organisation.

17. The TL / HIL must record the risk assessment considerations by creating an activity on the FRAIMS case and attaching any documents/risk assessments, including any received from an external agency if they have lead responsibility, to the activity. See FRAIMS guidance – [Recording the Operational Risk Assessment considerations](#).

18. Operations that include a large number of staff on fraud drives or joint initiatives must appoint a nominated officer, who will be responsible for the H&S of those involved. They will also act as a central reporting point for staff arriving and leaving the area.

19. Where, as a result of their operational risk assessment, an outside agency identifies the wearing of stab vests or protective clothing to be mandatory, CFCD investigators should

comply with this control measure, providing that the criteria outlined in the paragraph below is met.

20. Where it is assessed there is a heightened risk to the personal safety of CFCD investigators, CFCD managers must ensure the wearing of stab vests or protective clothing is not the sole measure identified to allow investigators to take part in the operation. Control measures should also, for example, ensure CFCD investigators are:

- not the first point of contact with members of the public identified as the target of an operation, for example in road stop operations
- not the first to enter any premises. Investigators must only enter premises when they have been declared secure by the agency responsible for gaining entry.

21. If, following the commencement of the operation, the situation deteriorates from the initial briefing all CFCD staff must leave/be removed from the location immediately.

Visits to factories/processing plants

22. When carrying out visits to factories/processing plants/building sites, staff are required to dress accordingly, for example, protective clothing.

23. It is the organisation's responsibility to ensure that such clothing is available to staff involved in visits to these locations. Staff attending such an environment without the correct clothing may be refused access and must not attempt to enter.

24. Types of clothing that may be required include:

- hygienic overalls with hats/masks
- reflective clothing suitable for motorway usage
- protective hard hats
- safety footwear, and/or
- waterproof clothing.

This list is not exhaustive and each operation may require specific safety equipment/clothing.

Visits accompanied by the police

25. When the police accompany investigators and an incident occurs, investigators should move away and let the police deal with it.

Operations (Roadside)

26. A large number of joint initiatives with Other Government Departments (OGDs) are conducted at the roadside. Investigators or the nominated officer should consult the appropriate OGD for their Health and Safety (H&S) policy. Failure to comply with this may mean they will not be allowed to take part in the operation.

Transport

27. All vehicles used should be legally roadworthy, in line with appropriate management checks. Officers must be fit to drive. All documents and valuables must be secured out of sight, especially when the vehicle is left unattended.

28. See also Radio Procedures - [Radio Equipment](#).

Vehicle Protection Scheme

29. Counter Fraud and Compliance Directorate (CFCD) investigators who use their private vehicles for official duties can apply to have their vehicle's registration details protected.

30. Vehicle registration information is currently available to Police, Local Authorities (LA) and any person who is able to demonstrate reasonable cause.

31. The Vehicle Protection Scheme operates by preventing this information from being divulged before checks with Counter Fraud and Compliance Directorate (CFCD) co-ordinators and/or vehicle owners have been carried out. The police will still have access to the keeper details but the data is noted 'for Police eyes only'.

32. Investigators can arrange to have their vehicle registered under the Vehicle Protection Scheme by completing part 1 of the [VP1 \(link is external\)](#) and referring it by email to the Team Leader (TL) / Higher Investigations Leader (HIL) for authorisation who will then email the form to: **[Redacted]**

33. DVLA will also protect the registration details for an additional vehicle provided it is being used for work purposes.

34. The name of the person registered on the logbook (V5c) must be included on the VP1, Section 1 - Keeper. Personalised registration marks will not normally be protected.

35. The Driver Vehicle Licensing Agency (DVLA) will not protect vehicle records where a registration mark has been found to be misrepresented.

36. Vehicle records will be protected for 12 months, DVLA automatically remove the vehicle protection on the anniversary of the application and **will not** inform the individual in advance of this.

37. It is therefore important that the investigator completes parts 1 and 1A of a new form VP1 and sends it to the TL / HIL by email for authorisation. Once agreed the TL / HIL should send the VP1 to JCP Vehicle Protection by e-mail.

38. Vehicle protection must be cancelled by the investigator by completing parts 1 and 2 of a new VP1 and emailing it to JCP Vehicle Protection, if the following occur:

- the investigator no longer works for CFCD
- the vehicle has been sold
- the investigator is intending to sell the vehicle
- the vehicle is off the road
- there has been a change in the registered keeper of the vehicle
- the vehicle has been re-registered under a different number plate
- the number plate has been transferred to another vehicle
- the investigator has changed their name; in these circumstances two forms must be completed, one to cancel the protection under the old name and another to protect the vehicle under the new name.

39. DVLA have introduced an on-line service which allows motor traders to notify DVLA that they have accepted a vehicle 'into the trade'.

40. **[Redacted]**

41. Owners must take appropriate steps to cancel the vehicle protection in advance if they intend to sell or transfer their vehicle or VPN. DVLA will be notified within 10 days of receipt of a completed VP1 to ensure that their records are updated and the restriction is removed.

Mobile communications

42. In Department for Work and Pensions (DWP), the use of mobile phones or hand held radios by drivers is prohibited whilst on official business. Using a mobile phone while driving can distract your attention from the road. If driving a car either:

- switch off the phone
- use a message service and stop regularly to check for messages and return calls, or
- let a passenger make and/or answer calls.

43. This is because:

- it is illegal to use a hand held mobile phone, as the driver would not be in full control of the vehicle
- doing so would risk the safety of the occupants of the vehicle and other road users; and

- making or receiving a call, **even with a hands free phone**, can distract the driver's attention and could lead to an accident.

44. The law states that a driver must have proper control of the vehicle at all times. If the use of a phone causes the driver to drive in a careless or dangerous manner, they could be prosecuted for those offences. The penalties include an unlimited fine, disqualification and up to two years imprisonment.

45. In DWP, no hands free kits of any description, including ear pieces, are allowed to be used by drivers. Any action taken against a driver by the police in connection with the use of a mobile phone will be considered a disciplinary offence. Consideration to applying disciplinary action will follow.

Surveillance

46. Surveillance is an integral part of an investigator's work and the level of surveillance activity will depend on the type of investigation. In any surveillance activity, due consideration must be given to the Health and Safety (H&S) of those officers involved.

47. Whether the activity necessitates a group of investigators with a large number of vehicles, or one or two investigators in one vehicle, the principles are the same. During the planning and reconnaissance phase consider whether:

- surveillance is necessary
- it is a high risk area
- the local police have been advised of the operation
- the investigators are trained to the correct standard and are able to operate the equipment
- investigators and/or equipment are likely to be at risk
- the investigators have sufficient knowledge of the geographical area where the operation is likely to be conducted
- there is a risk of an accident
- there is any medical facility nearby, in case of accident or injury
- the investigators stand out against the environment and are likely to be compromised
- the investigators have a record of each others contact telephone numbers
- the investigators are aware of escape plans, for example, covert surveillance being discovered
- the vehicles are suitable for the operation
- the vehicular escape routes are known
- the emergency rendezvous point is known - in the event of vehicles and/or investigators being separated and
- the communication systems work in the area
- investigators are aware of what constitutes Unacceptable Customer Behaviour and how to report it, for further information see the [Unacceptable Customer Behaviour Guide \(link is external\)](#).

48. For more information, see [Surveillance](#).

04 Items Treated with Ninhydrin

Handling items treated with Ninhydrin

Caution should be taken when handling items that have been treated with Ninhydrin solution, a chemical used by the police in fingerprinting techniques on evidence exhibits.

The Forensic Service contract provides a fingerprinting service to Counter Fraud and Compliance Directorate (CFCD).

A solution of Ninhydrin crystals is used to react with the amino acids present in human perspiration, in order to develop friction ridge details on fingerprints and palm marks, on porous surfaces such as paper.

Ninhydrin is highly flammable, corrosive and vapour explosive, producing toxic fumes in fire. If inhaled, it can cause drowsiness and dizziness. If absorbed, it can burn tissue, cause dizziness and respiratory difficulty. It can be irritating to the eyes and pregnant women should not be exposed to it.

Exposed documents that have been Ninhydrin treated will give off a noxious smell of vinegar. Therefore, treated documents used as exhibits must not be removed from their protective packaging. If packaging is damaged, it should be placed inside an undamaged evidence bag.

The hazardous details mentioned are the primary concern of direct users of Ninhydrin. The controls for direct users involve the wearing of Nitrile gloves and having access to a down draught workbench in a well ventilated room.

Note: There is no immediate health risk to investigative staff where exhibit material remains in the packaging it arrives in, such exhibits can be handled without gloves. Control of Substances Hazardous to Health (COSHH) [Risk Assessments](#) are mandatory for any site that uses Ninhydrin. Local Land Securities Trillium (LST) sections will carry these out at the request of the site manager.

For further information please contact:

[Redacted]

or

[Redacted]

Identity Fraud

00 Introduction

Introduction

Identity fraud is a fast growing and all-encompassing crime affecting all areas of society. This type of fraud, which includes both the creation of fictitious identities and the hijacking of another person's identity or National Insurance Number (NINo), for whatever reason, is complex. It is often difficult to establish the full extent of the criminal activity involved.

Identity fraud may be committed for a number of reasons including:

[Redacted]

This list is not exhaustive.

Section 1(1A) and (1B) of the Social Security Administration Act 1992 deal with the requirements for persons to provide NINOs in support of claims to benefit as well as the evidence that must be supplied so that a NINO may be allocated.

For more information, see [Section 19 of the Social Security Administration \(Fraud\) Act 1997](#). Investigators should note that in England and Wales (E&W) it is the responsibility of the Department for Work and Pensions (DWP) to only prosecute identity fraud in relation to false declarations for offences committed against the DWP when the person's identity is false.

In Scotland, DWP does not prosecute such offences but can report them to the Procurator Fiscal (PF) to consider taking proceedings.

For further information relating to the prosecution of DWP offences, see [Prosecution Authorities Role](#).

In England and Wales, it is the responsibility of UK Visas and Immigration to prosecute any issues around a person's right to either be resident, or have leave to work in the UK. Examples of these could be:

[Redacted]

In Scotland, UK Visas and Immigration would report such matters to the PF.

Section 19 of the Social Security Administration (Fraud) Act 1997

Subsection (1A)

"No person whose entitlement to any benefit depends on his/her making a claim shall be entitled to the benefit unless subsection (1B) below is satisfied in relation to the person making the claim and to any other person in respect of whom he/she is claiming benefit."

Subsection (1B)

"This subsection is satisfied in relation to a person if:

- a. the claim is accompanied by:
 - i. a statement of the persons national insurance number and information or evidence establishing that number has been allocated to the person; or
 - ii. information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or
- b. the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated."

Subsection (1C)

"Regulations may make provision disapplying subsection (1A) above in the case of:

- a. prescribed benefits
- b. prescribed descriptions of persons making claims; or
- c. prescribed descriptions of persons in respect of whom benefit is claimed, or in other prescribed circumstances."

01 Suspect Identity

Suspect identity

Hijacked identity

A hijacked identity is one that genuinely exists. It belongs to a real person and has been taken over by another person for a period of time, either with or without the real person's consent. Examples of identity hijacking include the following:

[Redacted]

This list is not exhaustive.

Fictitious/False identity

A fictitious identity is a false one from the outset that has been created by another person. Often, this involves the forgery of, or purchase of, forged or stolen documentation, such as birth or marriage / civil partnership certificates, Identity (ID) cards, passports or immigration documents. Again, this list is not exhaustive.

Suspicion of false identity

Establishing that an identity is suspicious and potentially false can occur at any stage. When the suspicion occurs at the National Insurance Number (NINo) application stage, where documentation relating to a person's identity is tendered, guidance relating to how Jobcentre Plus officers refer the NINo application and suspect documents. For example, Identity (ID) card, for investigation can be found in the [NINo instructions](#).

Where suspicion occurs at the benefit claim stage the department must follow the checking ID sections of the appropriate benefit guidance and, if a suspicion continues, to complete a Fraud Referral Form (FRF).

Following the NINo Evidence of Identity (EOI) interview, if there are any doubts about the authenticity of any documentation presented then those documents should be forwarded to the National Identity Fraud Unit (NIFU) for examination of authenticity.

For further details, refer to guidance in the SNAP guide. If in any doubt seek advice from NIFU.

There are a number of areas that may uncover a suspicious aspect of identity fraud. These include:

- local office Customer Information System (CIS)
- local office front line staff
- NINo interview and application number process staff
- NINo Delivery Centre (NDC) staff
- Counter Fraud and Compliance Directorate (CFCD)
- Local Authority (LA) fraud staff
- National Identity Fraud Unit (NIFU)
- Contact Centre Directorate (CCD) staff which includes National Benefit Fraud Hotline (NBFH), tax evasion
- Law enforcement agencies. For example, police
- Driver Vehicle Licensing Authority (DVLA)
- Child Maintenance and Enforcement Commission (CMEC) investigation service
- Identity and Passport Service (IPS)
- UK Visas and Immigration.

The investigation of identity fraud, involving the hijacking of identities or creation of fictitious identities, when related to benefit and / or NINo applications, is the sole responsibility of CFCD Criminal Investigations.

This does not include persons claiming benefit in their own name whilst working under an assumed name. Such cases would normally fall within the remit of CFCD Local service Investigations.

If any doubt about a person's identity occurs during a CFCD investigation, the case must be referred immediately to the appropriate CFCD Criminal Investigations inbox for organised work and the details of the transfer shown on the Fraud Referral And Intervention Management System (FRAIMS). See [FRAIMS guidance – Request for transfer of a Case](#).

02 Legislation relating to Identity Fraud offences

Legislation

Identity Documents Act 2010

1. The Identity Documents Act 2010 came into force on 21 January 2011 and re-enacts offence provisions introduced by the Identity Card Act 2006, which was repealed from the same date.

2. The offences under the Identity Documents Act 2010 are:

- Section 4 – Possession of false identity documents, etcetera with proper intention - an indictable only offence
- Section 5 – Apparatus designed or adapted for the making of false identity documents, etcetera with prohibited intention - an indictable only offence
- Section 6 – Possession of false identity documents, etcetera without reasonable excuse - triable either way.

3. Under Section 7 of the Act, the prescribed identity documents are:

- an immigration document, such as;
- (a) a document used for confirming the right of a person under the EU Treaties in respect of entry or residence in the United Kingdom,
- (b) a document that is given in exercise of immigration functions and records information about leave granted to a person to enter or to remain in the United Kingdom, or
- (c) a registration card (within the meaning of section 26A of the Immigration Act 1971).
- a United Kingdom (UK) passport (within the meaning of the Immigration Act 1971)
- a passport issued by or on behalf of the authorities of a country or territory outside the UK or by or on behalf of an internal organisation
- a document that can be used (in some or all circumstances) instead of a passport
- a UK driving licence
- a driving licence issued by or on behalf of the authorities of a country or territory outside the UK.

Fraud Act 2006

4. The Fraud Act 2006 came into force on 15 January 2007. In so far as relevant to Department for Work and Pensions (DWP) it extends to England and Wales only. Under Section 6 of the Act;

“A person is guilty of an offence if he has in his possession or under his control any article for use in the course of or in connection with any fraud.”

5. This offence could apply to someone who is in possession of a false identity document.

6. Section 7 states:

“A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article:

- (a) knowing that it is designed or adapted for use in the course of or in connection with fraud, or
- (b) intending it to be used to commit, or assist in the commission of, fraud.”

Forgery and Counterfeiting Act 1981

7. These offences only apply in England, Wales and Northern Ireland

1 The offence of forgery:

“A person is guilty of forgery if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person’s prejudice.”

8. This relates to the making of false documents. The knowledge and intent that the person making the instrument or any other person provided with it would use it to make another believe it was genuine must be established.

2 The offence of using a false instrument:

“It is an offence for a person to use an instrument which is, and which he knows or believes to be, a false instrument, with the intention that he or another shall use it to induce somebody to accept it as a copy of a genuine instrument, and by reason of so accepting it to do or not to do some act to his own or any other person’s prejudice.”

9. This relates to the use of false documents. The knowledge that a document was false and the fact that the person used the instrument with the intention of making another believe it was genuine must be established. This includes forged/false passports or immigration documents, although having possession of these documents is not an offence.

Section 5 – Offences relating to money orders, share certificates, passports, etcetera

“(1) It is an offence for a person to have in his custody or under his control an instrument to which this section applies which is and which he knows or believes to be, false, with the intention that he or another shall use it to induce somebody to accept it as genuine and by reason of so accepting it to do or not to do some act to his own or any other person’s prejudice.”

(2) It is an offence for a person to have in his custody or under his control, without lawful authority or excuse, an instrument to which this section applies which is, and which he knows or believes to be false.

(3) It is an offence for a person to make or to have in his custody or under his control a machine or implement, or paper or any other material, which to his knowledge is or has been specially designed or adapted for the making of an instrument to which this section applies, with the intention that he or another shall make an instrument to which this section applies which is false and that he or another shall use the instrument to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person’s prejudice.

(4) It is an offence for a person to make or to have in his custody or under his control any such machine, implement, paper or material, without lawful authority or excuse.

(5) The instruments to which this section applies are:

(6) In subsection (5) (e) above “share certificate” means an instrument entitling or evidencing the title of a person to a share or interest –

- (a) money orders
- (b) postal orders
- (c) United Kingdom postage stamps
- (d) Inland Revenue [now Her Majesty’s Revenue and Customs] stamps
- (e) share certificates
- (f) passports and documents which can be used instead of passports [(fa) immigration documents] (repealed)
- (g) cheques [and other bills of exchange]
- (h) travellers’ cheques [(ha) bankers’ drafts (hb) promissory notes]

(j) cheque cards [(ja) debit cards]

(k) credit cards

(l) certified copies relating to an entry in a register of births, adoptions, marriages, [civil partnerships] or deaths and issued by the Registrar General, the Registrar General for Northern Ireland, a registration officer or a person lawfully authorised to register marriages [issue certified copies relating to such entries]

(m) certificates relating to entries in such registers.

(a) in any public stock, annuity, fund or debt of any government or state, including a state which forms part of another state; or

(b) in any stock, fund or debt of a body (whether corporate or unincorporated) established in the United Kingdom or elsewhere.”

10. From 7 June 2006 the provisions of subsections 5(f) and 5(fa) mean it is no longer possible to prosecute someone for possession of forged/false passports or immigration documents. This relates to the possession of false documents and that the person intended to use the instrument with the intention of making another believe it was genuine must be established.

11. The possession of a false National Insurance Number (NINO) card issued by Her Majesty's Revenue and Customs (HMRC) is not an offence, however the use of it could continue as an offence under Section 3 of the Forgery and Counterfeiting Act 1981.

03 Case Management

CFCD Criminal Investigations action

On receipt of a case in the Counter Fraud and Compliance Directorate (CFCD) Criminal Investigations team inbox, the Higher Investigations Leader (HIL) must consider the following:

- If more intelligence is needed to strengthen or refute the allegation
- [handover](#) to an Other Government Department (OGD) if the enquiries have proved negative or that the incident is more suitable for an OGD to investigate
- [transfer](#) to another team within CFCD if enquiries are more relevant for another team to take forward
- [closing](#) the case if No Fraud Action is considered appropriate.

A case of identity fraud must never be transferred to Compliance.

If it is considered appropriate, a [Master file](#) with the details of the operational name should also be set up.

When the case owner receives a case they must link the case to the master file and any subsequent cases that are raised on suspects as a result of the operation being conducted.

If a suspect is identified during the course of an investigation but it is decided that a separate case is not appropriate, the details of the suspect must be recorded on the master file.

Intelligence gathering

The following checks should be made to strengthen or refute the allegation:

[Redacted]

This list is not exhaustive.

Where documents have been obtained that require translation in to English from another language, follow instructions on the [Foreign Language Translation \(link is external\)](#) page. Consideration should be given as to whether a document may be required for Court purposes,

as the process for obtaining such translations differs from translations required for administrative purposes. Investigators must refer to the Secure NINo Application Process (SNAP) Guide for other useful addresses and contacts.

The Request For Information (RFI) process in the Fraud Referral And Intervention Management System (FRAIMS) must be used to record how and when intelligence has been gathered. See [Requests for Information](#).

04 National Identity Fraud Unit

Identity Fraud – Document Examination Team

1. The Counter Fraud and Compliance Directorate (CFCD) Identity Fraud - Document Examination Team (DET) role is to:
 - examine all suspect passports and Identity (ID) cards presented regardless of their country of origin
 - identify and report trends

[Redacted]

[Redacted]

- refer appropriate false identity cases to Serious and Organised Crime using the Fraud Referral Form (FRF) and decide whether it is a high or low level referral
 - refer suspect documents to the National Document Fraud Unit (NDFU), which is part of the Home Office, when an issue check is required
 - liaise with the Home Office to advise on issues relating to a person's right to work/remain in the UK.
2. Additionally, Identity Fraud DET play a pivotal role in the whole process of identifying suspect documents.

High level referrals

3. A high level referral is appropriate when a document is found to be counterfeit or manipulated.
4. Once a decision has been made that the referral is high level, Identity Fraud DET will prepare a referral package and send this direct to Serious and Organised Crime using the TNT Documented Service process.
5. This provides Serious and Organised Crime with evidence in advance thus allowing, where appropriate, the team to initiate urgent arrests in conjunction with police and the Home Office.

Packages include the original false document(s), [Redacted]

CFCD Serious and Organised Crime action on high level referrals

7. All high level referrals should be given priority ensuring that the claimant is informed of the NINo decision as soon as possible. The investigator should provide the originator of the FRF with feedback to enable Identity Fraud DET to manage customer expectations.
8. Following the interview with the claimant and Identity Fraud DET have been notified of the action taken, Serious and Organised Crime should notify Identity Fraud DET by email of the case outcome.

Where Serious and Organised Crime have been unable to arrest or interview the claimant, they will [Redacted]

Low level referrals

10. A low level referral to Serious and Organised Crime is appropriate when Identity Fraud DET have established that suspicious or potentially fraudulent identity documents have been presented in support of an application for a NINo and one of the following referral criteria is appropriate:

[Redacted]

- Any other cases – For example: Any other low level referral cases that do not fall into any of the other categories.
11. Following referral on form FRF, Identity Fraud DET must send the low level package to Serious and Organised Crime.
 12. Identity Fraud DET will also send referral packages for cases where there are false entries on genuine documents by TNT Documented Service.
 13. If Serious and Organised Crime decide that the case is not appropriate to them, the case may be referred by them to CFCD Local Investigations. No further action is required by Identity Fraud DET in these cases.

Returning documents following an investigation

14. Following action by Serious and Organised Crime, documents that are no longer required must be returned to the Identity Fraud DET.
15. For further information, see [NINO instructions](#).

Obtaining advice from the Identity Fraud Document Examination Team about suspect documents

16. Identity Fraud DET should be contacted as soon as possible for advice and/or assistance regarding all document related issues in DWP.
17. This assistance may include:

[Redacted]

18. All documents should have their security features checked by contacting Identity Fraud DET. Special arrangements can be made for the service to be made available outside normal hours by contacting the Identity Fraud DET manager. Lost or stolen blank documents are genuine documents sometimes with manipulation that is often difficult to detect. [Redacted]

Document found to be genuine

20. Document(s) submitted in relation to a NINO application deemed to be genuine will be returned to the Evidence of Identity (EOI) interviewing site. The interviewing officer must contact the applicant to make arrangements for them to collect their identity documents from the office.

Document found to be invalid

21. When a document is found to be invalid, it will be returned to the embassy of the country of origin. Identity Fraud DET will send the EOI interviewing site a letter to notify the document owner as what they need to do next.

Document found to be manipulated or counterfeit

When a document submitted in relation to a NINO application is deemed to be manipulated or counterfeit, [Redacted]

22. The document(s) must **never** be returned to the applicant.

05 National Identity Fraud Intelligence Desk

National Identity Fraud Intelligence Desk

1. The National Identity Fraud Intelligence Desk (NIDFID) is part of the Counter Fraud and Compliance Directorate (CFCD) (Serious and Organised Crime) located in the North East Operational Intelligence Unit at [Redacted]

2. The prime functions of the desk are to:

- collate and analyse identity crime intelligence and operational information
- identify and evaluate threats
- report to and liaise with CFCD Management, CFCD Operational Support, all identified and relevant Department for Work and Pensions (DWP) stakeholders, and with external partners with direct responsibility for Identity crime programmes
- assure first line connectivity between stakeholders to address identity crime Intelligence and progress to investigation
- seek continued improvement in CFCD organisational activity to counter identity crime and secure our systems.

3. NIDFID are responsible for flagging National Insurance Number (NINo) accounts and reactivation processes.

4. These processes, designed to protect both NINo and benefit systems from false identity and identity theft offences, and to ensure appropriate identification of immigration offenders.

5. Responsibilities include:

[Redacted]

6. **[Redacted]**

Flagging suspect or vulnerable accounts

7. The following is the agreed criteria for what National Insurance number (NINo) accounts must be flagged and why:

[Redacted]

To request an account to be flagged:

Internally via FRAIMS:

8. The request must be made before an account is closed on FRAIMS.

9. The request must be via an activity in FRAIMS to **[Redacted]** clearly stating under which of the above category it falls under and with the [FLAG 1 \(link is external\)](#) attached to the activity.

10. NIDFID confirm if an account has been accepted for flagging via FRAIMS within 48 hours of receipt.

11. Do not close the case on FRAIMS until NIDFID have confirmed the request to flag has been agreed.

Requests within DWP via e-mail:

12. For those requests where there is no on-going operation or the FRAIMS account has been closed, requests to flag an account must be done via the completion of a [FLAG 1 \(link is external\)](#).

13. On completion, the form must be sent to NIDFID generic e-mail address: **[Redacted]**

14. NIDFID advise if the request has been accepted by return of e-mail within 48 hours of receipt.

Requests from external sources, outside DWP, via e-mail:

15. Requests from sources outside the DWP, for example, Her Majesty's Revenue and Customs (HMRC) or Local Authorities (LAs), must be made via an e-mail request on either a [FLAG 1](#) or in writing.

16. All requests must include a full explanation of which category of the flagging criteria it falls under and why.

17. Requests must be sent to the generic e-mail address:

[Redacted]

18. NIDFID advise if the request has been accepted by return of e-mail within 48 hours of receipt.

06 Identity Fraud Reduction Programme

Background

As part of the identity fraud reduction programme, the Home Office has set up an Identity Fraud Steering Committee (IFSC) with a number of sub-groups reporting to the IFSC.

The Identity Fraud Prosecution Sub-Group (IDFPSG) examines areas for improvement in relation to cross government working on identity fraud prosecutions.

The group has set up a Single Point of Contact (SPOC) network, which comprises of a SPOC from each United Kingdom (UK) police force constabulary, along with the following participating members, known as referring agencies:

- Department for Work and Pensions (DWP)
- Her Majesty's Revenue and Customs (HMRC)
- Identity and Passport Service (IPS)
- Driver Vehicle Licensing Agency (DVLA)
- Driving Standards Agency (DSA)
- UK Visas and Immigration
- Crown Prosecution Service (CPS)
- Criminal Records Bureau (CRB)

It was agreed that as each agency has different needs, it is not possible to arrive at a generic SPOC role for all agencies and therefore each agency's SPOC role is different.

As DWP is committed to playing its part in relation to identity fraud prosecution it has been agreed to provide a SPOC.

As DWP, has its own vehicle for prosecution, the SPOC role is seen to have more relevance in disseminating intelligence and good practices, identified during DWP investigations, to other agencies and in disseminating good practices and intelligence from other agencies within our own investigative community.

Definition of Single Point of Contact role

In the vast majority of cases, issues continue to be resolved locally by the Counter Fraud and Compliance Directorate (CFCD) Criminal Investigations manager or their senior manager where required through existing operational channels.

In the event of an issue arising that cannot be resolved locally the Higher Investigations Leader may, where they deem appropriate, contact the DWP SPOC.

The DWP SPOC liaises with either the Police or other agency SPOC in attempt to resolve the issue.

Note: The DWP SPOC is the only person authorised to contact other agency SPOCs. The following are examples of when a SPOC may be able to assist:

[Redacted]

The SPOC:

[Redacted]

Referral process

CFCD Criminal Investigations Higher Investigations Leaders should refer any issues directly to the Single Point of Contact (SPOC). The referral may be sent by e-mail or courier and should include enough case file historical information to allow the SPOC to fully understand and seek resolution of the issue in question.

If the issue involves a specific Identity (ID) card fraud case the HIL may wish to associate the SPOC to the case on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS guidance – Associating a colleague to a case](#).

Single Point of Contact

The nominated SPOC for prosecution issues is [Redacted]

Telephone on [Redacted] or

Via e-mail on [Redacted]

Incident Management

00 Tracing action

Tracing action

Guidance in this section should be read in conjunction with the [FRAIMS guidance - CIS Tracing – FES Criminal Intelligence action only](#).

Once the Fraud Referral Form (FRF) is submitted to the Fraud Referral and Intervention Management System (FRAIMS) an incident is created. The FRF is locked and cannot be altered in any way

When an incident first enters FRAIMS, the **Status** field will temporarily display as **New**. The incident must not be accessed until FRAIMS has finished processing it and the status field displays an entry other than **New**. For example, **No Person Found on CIS**.

If the incident displays a status of **New** for over 24 hours, raise an incident via Live Support.

Automated trace action

FRAIMS has been designed to automatically consider the information provided on the Fraud Referral Form (FRF) and route according to specified criteria.

FRAIMS automatically searches the Customer Information System (CIS) for all records that match the details of the alleged suspect contained within the incident.

For individuals, FRAIMS attempts to obtain a match where any combination of the following pieces of personal information are present:

- last name
- first name
- National Insurance number (NINo)
- first line of the Address
- postcode
- date of birth
- gender.

When a single match is found on CIS, a **Contact** record is created and the **Contact** screen and views are completed with details retrieved from CIS.

If a Contact record is found, FRAIMS will automatically consider all the information provided on the incident and follow a pre-defined set of business rules to decide if action is required and to whom the created case should be sent to.

In Generalised Matching Service (GMS) referrals, FRAIMS automatically identifies that the incident contains a GMS rule number and routes the incident according to the relevant criteria even if there is no trace of a benefit.

Manual trace action required

If the automatic Customer Information Service (CIS) search has not been successful, manual decision making on the incident is required.

All incidents that require manual input are routed by the Fraud Referral and Intervention Management System (FRAIMS) to the **[Redacted]** for allocated for manual actions.

FRAIMS will identify why manual action is required by changing the Status field.

A number of incidents can be allocated to a single user at the same time. See [FRAIMS guidance – Bulk allocation of Incidents](#).

When the incident has been assigned for manual trace action, the CIS trace is undertaken outside FRAIMS using DWP systems directly. These systems include:

- Customer Information System (CIS)
- Jobseekers Allowance Payment System (JSAPS)
- Income Support Computer System (ISCS)
- Disability Living Allowance (DLA) via DLACS
- Personal Independence Payment (PIP) via PIPCS
- Retirement Pension Computer System (RPCS)
- Employment and Support Allowance (JSAPS)
- Pension Transformation Programme Customer Account Manager (PTP CAM).

This list is not exhaustive.

Any actions taken to trace:

- the correct National Insurance Number (NINo)
 - the benefits in payment, or
 - identify a new offence type
- must be recorded on the incident record on FRAIMS.

If the offence does not affect the benefit in payment, check the incident record to establish if a new offence can be identified from the information recorded on the Fraud Referral Form (FRF).

More than one match or no match

When CIS finds either more than one possible match or cannot find a match on CIS, the incident **Status** field is updated to **No Person Found on CIS**.

Manual action is required to establish the correct NINo for the suspect.

CIS is unavailable

If the Customer Information System (CIS) is unavailable when an automatic trace is undertaken, the incident 'Status' field on FRAIMS is updated to 'No Person found on CIS'.

Manual trace action will be required when CIS is available.

No benefit in payment or benefit unaffected

If during the CIS search, current benefit details cannot be traced or the benefit(s) traced are not affected by the allegation, the incident **Status** field is updated to **No Benefits Found** or **Benefits not affected**.

Manual action is required to check the status of the benefits in payment before further actions can be undertaken.

Incomplete fields

When FRAIMS is unable to initiate an automatic CIS search because the required fields to begin the search have not been completed on the FRF, the incident **Status** field is updated to **No Contact Found**.

No record identified

If the nominated officer conducting the manual trace cannot trace the individual they must record their actions on FRAIMS.

An officer, of at least Band C grade, must decide whether the incident should be recorded as No Fraud Action (NFA) or whether further research is required to identify the individual.

The Band C officer must consider whether there are alternative methods of tracing that could be used to identify the individual. For example;

- electoral registers or
- advanced search options within the IT systems.

If further research is required, the incident must be referred back to the nominated officer for further trace and match action to be taken. The incident must be updated with any further information that is obtained.

More than one record traced

If during the CIS search more than one match is found to the information provided on the FRF, the **Status** field displays **No Person Found**.

Details of the matching records found are not displayed. Therefore, the user must interrogate other systems to identify the correct record.

When the user has identified the correct record, they must update FRAIMS with the details of the NINo of the record traced on CIS and submit the incident back to FRAIMS.

This allows the automatic interface between CIS and FRAIMS to identify the correct Contact record.

Manual tracing of benefits

An incident must be manually progressed through FRAIMS when manual trace action has been undertaken, and:

- clerically held benefit details are located or
- it is identified that the offences on the incident affected the benefits in payment for a past period or
- there is no benefit in payment.

Offence type affects benefit

FRAIMS automatically identifies whether or not the offence type would affect entitlement to the benefits in payment.

The FRAIMS user must check the incident to ensure that benefits are not paid clerically or for a past period when the offence type may have affected benefits. In these circumstances, it is necessary to consider if the incident should be manually promoted to a case.

Where benefits are not affected consideration must be given to passing the information to Other Government Departments (ODGs), if appropriate, and the incident should be closed as **No Fraud Action**.

01 Existing Incidents and Cases Found

FRAIMS Actions

1. During the FRAIMS Incident Management automatic routing, where FRAIMS identifies there are live Incidents and/or Cases, the new Incident will be removed from the automatic routing and will be sent to the owner of the live Incident or Case.

2. FRAIMS sends the new Incident in the following order of priority:

- Single Live Case Found – new Incident sent to owner of the live Case
- Multiple Live Cases Found – new Incident sent to the Referral Management Inbox managed by Fraud and Error Service Criminal Intelligence
- Single Incident Found – new Incident sent to the owner of the live Incident
- Multiple Incidents Found – new Incident sent to the owner of the oldest live Incident.

3. Incident/Case owners must action all new Incidents which have been received on a daily basis to ensure they are:

- linked
- re-routed or
- closed.

4. On receipt of the matching Incident users must review the information on the new incident and take action as outlined in [FRAIMS guidance - Matching to existing incidents and cases](#).

Live Incidents identified

5. Where FRAIMS identifies that a live incident exists, the new incident is sent to the owner of the existing incident.

6. The new Incident will display in the users 'My Incidents' view. The status of the incident is 'Single Incident Found'.

7. If FRAIMS identifies that multiple live incidents exist, the new incident is sent to the owner of the oldest existing incident found.

8. The new Incident will display in the users 'My Incidents' view. The Status of the new incident is 'Multiple Incident Found'.

9. As FRAIMS does not send an Activity to the existing Incident owner to advise a new Incident has matched to an existing live Incident, users must review their 'My Incident' view on a daily basis to identify and action any new Incidents received.

10. On receipt of the new incident, the incident owner must review the information contained within each incident and where the offence type is the same on both incidents the new incident should be linked to the original.

11. Update the live incident with the additional information provided on the new incident received.

12. Where the offence types are different the FRAIMS user must action the oldest incident before re-submitting the new incident to the Business Rules Engine (BRE) for consideration of the information received.

Live Cases identified

13. Where FRAIMS identifies that a live Case exists, the new Incident is sent to the owner of the existing Case.

14. A new activity of 'New Incident Match' is sent to the case owner and will display in their 'My Activities' view to advise that a new matching incident has been received.

15. The new Incident will display in the case owner's 'My Incident' view and can be identified by the Status of 'Single Case Found'.

16. On receipt of the activity the user must consider the stage the current investigation has reached.

17. Where the existing case has been referred to the Crown Prosecution Service (CPS) for prosecution action, and the new Incident received identifies different offence types and /or different periods, the case owner must discuss the details of the new incident with a CPS lawyer to decide on the next actions. Depending on the advice received, the new incident should be linked to the current case or re-routed.

18. If a Loss of Benefit fraud penalty has been applied, and the new incident contains details of:

- the same offence and period, the new incident must be 'linked' to the existing case
- a different offence type and/or period, the new incident must be 're-routed'.

19. If two or more live cases are identified, the new incident is routed to the Incident Management Inbox within Operational Intelligence Unit (OIU).

20. The process to identify the oldest live case and send the new incident to the appropriate case owner will be managed by the OIU Incident Managers

21. Where the OIU identifies the case owner of the oldest live case, they will create an activity and send the activity and new Incident to the case owner. The activity will display in the case owners 'My Activities' view as:

- Type = Assign,
- Category = New Incident,
- Resolution = Decision Required,
- Status = Assigned.

22. On receipt of the incident, the case owner must decide if the new incident has relevance to their live case and either:

- link the new Incident to their case or
- forward the new Incident to the owner of the next oldest case.

02 Manually promote to a case

Manually promote to a case

1. Guidance in this section should be read in conjunction with [FRAIMS guidance – Manually promote to a case – Criminal Intelligence action only](#)

2. When the FRAIMS user establishes that either:

- benefits have been paid clerically or
- that no trace of the claimant can be found

it is necessary to decide if the incident is to be manually promoted to a case.

3. When considering if an incident should be manually promoted all the following sections must be considered. It is important that these consideration are made in the order outlined in the guidance.

Checking for live or dormant incidents and cases

4. Before manually promoting the incident to a case it is necessary to query FRAIMS, to locate any existing live or dormant incidents and/or cases for the suspect, see [FRAIMS guidance – Queries](#).

Live incidents and/or cases located

5. When an existing live incident or case is located, the FRAIMS user must consider if the new incident should be routed to the incident or case owner for them to consider the relevance of the new incident or should stand alone.

6. Where an existing live incident/case is identified, route the new incident to the existing incident/case owner by changing the primary owner of the new incident to that of the existing incident/case.

No live incidents or cases located

7. If no live incidents or cases are located, the FRAIMS user must consider if the incident should be manually promoted to a case and to whom the case should be routed.

Criteria to be considered

8. Examine the information provided on the incident/Fraud Referral Form (FRF), and consider the following:

- pro-active incidents
- Risk Assurance Division
- Counter Fraud and Compliance Directorate (CFCD) Criminal investigations
- two or more offence types
- Veterans Agency
- offence type of 'Abroad Fraud'.

Pro-active incident

9. Where the Source Type on the FRF is 'Pro-Active Investigation' and a case number is shown in the 'Keywords' field in the 'Incident – More Info' view, the incident must be promoted to a case and sent to the owner of the existing case.

Risk Assurance Division

10. If the incident relates to payments made under the Access to Work scheme, promote the incident to a case and transfer the case to the CFCD Single Point of Contact using the FRAIMS position **[Redacted]**

11. If the incident relates to:

- suspicions of fraud by contractors, providers, and suppliers of Department for Work and Pensions (DWP) and Jobcentre Plus
- abuse by employers in receipt of subsidies
- abuses against European Social Fund (ESF) funding where projects are co-financed by Jobcentre Plus

12. Promote the incident to a case and transfer the case directly to Risk Assurance Division using the Users Id of **[Redacted]**

13. For more information, see [Risk Assurance Division \(Investigations\)](#).

Counter Fraud and Compliance Directorate Criminal Investigations

14. The following types of offence are promoted for investigation by Counter Fraud and Compliance Directorate (CFCD) Criminal Investigation:

- identity fraud
- collusive landlords
- employer compliance cases
- manipulated, forged and counterfeit cheques
- Royal mail or Post Office employees
- cross region or national boundaries (National Intelligence Model levels 2 and 3)
- persons in a professional capacity
- new types of innovative fraud

15. Where routing to CFCD Criminal Investigations is appropriate, the FRAIMS user is required to manually promote the incident to a case before forwarding the case for investigation.

Identity Fraud

16. CFCD Criminal Investigations is responsible for investigating all allegations relating to all aspects of identity fraud, for example;

[Redacted]

17. For more information, see Identity Fraud - [Suspect Identity](#)

Collusive landlords

18. If the incident relates to any aspect of collusion by a private landlord with another person(s) it should be promoted to a case and sent to the appropriate CFCD Criminal Investigations team..

19. If the allegation identifies collusion with person's who are using false identities to claim benefits a further FRF in the other persons named must be raised.

Instruments of Payment

20. Where it is identified that the Instrument of Payment (IOP) loss meets the sift criteria for referral to the National Cheque Intelligence Desk (NCID) within CFCD Criminal Intelligence, a FRF will not be completed.

21. NCID will create the master file referral to CFCD Criminal Investigations and forward it directly to the appropriate team.

22. Where the IOP loss meets the criteria for CFCD [Local Service](#) Investigations action, a FRF is completed and the incident should be promoted and sent to the appropriate team inbox.

23. For more information, see Instruments of Payment – [Conducting an Instrument of Payment Investigation](#).

Royal Mail or Post Office employees

24. Where the incident refers to involvement by an employee of Royal Mail UK or Post Office Counters Limited (POCL) manually promote the incident to a case and forward to the appropriate CFCD Criminal Investigations team

Cross region or national boundaries (National Intelligence Model Levels 2 and 3)

25. If the incident contains an allegation about criminals who are either crossing regional boundaries or offending on a national scale should be promoted and forwarded to the appropriate CFCD Criminal Investigations team.

Persons in a professional capacity

26. Any allegations referring to General Practitioners (GPs), Solicitors or Accountants who are providing assistance to others to commit fraud against the DWP should be promoted and sent to the appropriate CFCD Criminal Investigations team.

27. If the allegation refers to involvement by a member of DWP, see RAD (Investigations) - [Referral Process](#)

New types of innovative fraud

28. Any allegations involving new and innovative fraud, such as the setting up of false bank accounts, future internet on-line benefit claims, internet sites relating to identity fraud or overseas means tested benefit claims, should be promoted and sent to CFCD Criminal Investigations.

Two or more offence types notified on FRF

29. If the incident does not meet the criteria for CFCD Criminal Investigations, the FRAIMS user must consider if the incident indicates two or more offence types.

30. Incidents with two or more offence types are routed to Investigations for criminal investigation regardless of the amount of information provided on the FRF.

Service Personnel & Veterans Agency

31. If the Source Type on the incident displays 'Veterans Agency', promote the incident to a case and forward the new case to the appropriate CFCD Investigations team inbox.

Abroad fraud

32. Where the Offence selected on the FRF is 'Abroad Fraud' the incident must be promoted to a case and forwarded using FRAIMS to the nominated CFCD Abroad Fraud Inbox.

33. The Abroad Fraud Triage Team will consider the details provided and either:

- close the case – No Fraud Action, or
- transfer the Case to Compliance, CFCD Criminal Investigations or CFCD Investigations, as appropriate.

Benefits paid clerically

34. If the Customer Information System (CIS) and/or legacy checks have indicated that benefits are in payment but are paid clerically, it is necessary to consider if the benefits in payment are affected by the nature of the offence and details provided on the Fraud Referral Form (FRF).

35. If the offence type does affect the benefits in payment, then the incident must be promoted to a case

36. If the benefits are not affected by the offence type, continue through the following section.

Dormant cases located

37. If a dormant case is located record in the 'Other Information' field on the new incident details of the:

- outcome
- date of case closure and
- case number.

38. Regardless of the amount of information on the new FRF/Incident, route the new case to Counter Fraud and Compliance Directorate (CFCD) where the outcome of the previous case is:

- Prosecution
- Administrative Penalty
- Caution
- Administrative Penalty refused
- Caution refused
- Positive Criminal
- Positive Customer Compliance,

Routing by offence type

39. Certain offence types have been categorised as being suitable for Counter Fraud and Compliance Directorate (CFCD) Investigations or Compliance action regardless of the amount of information provided on the Fraud Referral Form (FRF).

40. The table gives details of CFCD Investigations and Compliance routing by offence type

Offence Type	Route
---------------------	--------------

[Redacted]	Criminal
[Redacted]	Criminal
[Redacted]	Criminal
[Redacted]	Compliance
[Redacted]	Compliance

41. All other offence types are routed according to the nature and relevance of the information provided on the FRF.

42. The table gives details of the offence type and the routing by information relevance.

Information provided on FRF	Route
[Redacted]	Criminal
[Redacted]	Compliance
[Redacted]	Criminal
[Redacted]	Criminal
[Redacted]	Compliance
[Redacted]	Criminal
[Redacted]	Compliance
[Redacted]	Criminal

[Redacted]	Compliance
[Redacted]	Serious and Complex
[Redacted]	Criminal
[Redacted]	Compliance

Remove the primary case owner and allocate the case

43. When the 'Create Case' button has been selected and a case created from the incident, it automatically makes the person who created the case the primary case owner. This must be changed before the case is allocated to the new team inbox.

44. When the primary case owner has been removed, the case must be referred to the new area's inbox.

03 Incidents for Pensions Disability and Carers Service action

Incidents for Pensions Disability and Carers Service action

Guidance in this section should be read in conjunction with [FRAIMS guidance – Pensions Disability and Carers Service \(PDCS\) Referrals](#).

Fraud Referral and Intervention Management System (FRAIMS) will automatically identify all incidents with a single offence of 'Disability in Doubt' and following a check of the benefits in payment will either forward the incident to specific FRAIMS in boxes, now controlled by Serious and Organised Crime (SOC) for manual action or will continue with the normal automatic routing process.

Pensions Disability and Carers Service benefits in payment

If Attendance Allowance, Personal Independence Payment or Disability Living Allowance is in payment, the Referral Enhancement Routing (RER) team will assign an investigation through the Fraud Referral and Intervention Management System (FRAIMS) to Investigations. Counter Fraud and Compliance Directorate (CFCD) only deals with cases where disability is in doubt and the circumstances are suitable for investigation. In cases where disability is in doubt but it is deemed not suitable for investigation:- DLA cases to be passed via DLA SPoC to DCS and PIP referrals will be routed at the referral stage to the appropriate Regional Benefits Centres (RBC) via [Redacted] MOU for unplanned intervention action.

Attendance Allowance cases are closed with no further action.

FRAIMS updates the incident 'Status' field to 'Requires Action' and assigns the Incident to the 'Disability and Carers Service (DCS) – 'Disability in Doubt' Inbox for SOC action.

Serious and Organised Crime will manually create a FRAIMS case and assign it to the appropriate Investigations Referral and Enhanced Routing (RER) team for consideration.

RER staff will consider the information within the case and decide what action should be taken on the incident. They will either:

- consider additional intelligence that can be added before transferring the case to the relevant Investigations for a full and proper investigation
- consider whether the information is insufficient for a criminal investigation but it meets the criteria to be considered as a third party referral and passed out of sequence review by DCS and close the case on FRAIMS
- consider there to be insufficient information for any review to take place, update activity of this fact on FRAIMS and close the case.

Pensions, Disability and Carers Service benefits not in payment

If a Pensions, Disability and Carers Service (PDCS) benefit is **not** in payment, the incident proceeds through the automatic process is reviewed by RER to assess the impact on other benefits in payment.

If the allegation potentially affects other benefits, the CFCD Investigators will allocate the case to the LSFTL to consider referral to LSC or non-specialist investigators.

Carers Allowance and working in receipt

Where an incident is received with the offence type of 'Working in Receipt' and where Carers Allowance (CA) is the only benefit in payment, the incident will normally fall out with the 'Status' field displays 'Benefits Not Affected'. SOC staff should promote these incidents manually to become a case and assign them to the relevant RER team in boxes for consideration.

04 Nationally Sensitive Incidents

Nationally Sensitive Incidents

1. Guidance in this section should be read in conjunction with [FRAIMS guidance – Nationally Sensitive Incidents](#).
2. If during the automatic Customer Information System (CIS) search the Contact record traced is for a claimant with a nationally sensitive National Insurance Number (NINo), FRAIMS automatically marks the record as sensitive and allocates the case to the FRAIMS Sensitive Case Inbox for action.
3. If during the CIS search FRAIMS is unable to locate the correct contact record, the incident will be routed to the **[Redacted]** for manual trace action.

Manual trace identifies Nationally Sensitive Contact record

4. When the manual trace locates a nationally sensitive contact record on Customer Information System (CIS), the only details visible will be the National Insurance number (NINo). All other personal details will be protected.
5. Test checks applied by CIS will be triggered and associated procedures must be followed.
6. To return the Incident to the FRAIMS process, update the Suspect record with the NINo traced.
7. Update the Incident Status field to return the incident to the automatic FRAIMS process and to trace the Contact record.

Manual trace of Nationally Sensitive record unsuccessful

8. When the correct Contact record cannot be traced, manual tracing of the NINo must be undertaken, see [Manual trace action required](#). Test checks applied by CIS will be triggered and associated procedures must be followed.

Nationally Sensitive Incident Inbox

9. Some Incidents with a Nationally Sensitive contact attached will 'fall-out' of the automatic FRAIMS process, as they require manual intervention. This will occur when:

- no current benefit details are found
- the allegation does not affect the benefit(s) in payment
- multiple cases exist.

10. The sensitive marker applied to these incidents ensures that they are automatically routed to the **[Redacted]** for action. This is a national inbox that will be managed by a small number of staff in a central team. This central team will have high-level sensitive access to allow them to view the Nationally Sensitive Contact record.

Accessing the 'FRM Sensitive Incident AM Inbox'

11. To access the Sensitive Incident inbox, the user must have access to the correct FRAIMS position. The position required is **[Redacted]**. Where this is not the User's primary position, then it must be changed to access the Sensitive Incident Inbox.

Accessing the Nationally Sensitive Incident

12. The Nationally Sensitive Incident has now been transferred to a team member for action and will therefore display in the officer's 'My Incidents' view. The team member must now access the incident to establish what action is required.

05 Incident Closure and Disclosure to Other Bodies

Disclosure to Other Government Departments/Organisations

1. Where further trace action is not appropriate an officer, of at least Band C grade, must consider whether or not the allegation is suitable for onward referral to:

- Other Government Departments (OGDs), such as Her Majesty's Revenue and Customs (HMRC)
- the police
- Local Authorities (LAs)
- Service Personnel & Veteran's Agency (SPVA).

This list is not exhaustive.

2. If a referral to Service Personnel and Veterans Agency (SPVA) is considered appropriate, email the referral to: **[Redacted]**

3. For further guidance, see [Disclosure to OGD/Organisations](#)

No Fraud Action

4. No Fraud Action (NFA) incidents are defined as:

- the individual is not, or has not been, in receipt of benefit for any part of the duration of the allegation or query
- the allegation or query does not have any effect on the individual's entitlement to benefit, and/or
- referrals where individuals cannot be traced.

5. If NFA is to be taken on an incident, an e-mail confirmation of this action is sent to the person who submitted the Fraud Referral Form (FRF) if the person making the submission has provided their e-mail address.

6. The item of post must be retained securely for 13 weeks from the date of the decision that NFA is appropriate. This allows for management validation activity.

Closing the Incident

7. When the incident is to be closed, update the Status field to 'No Fraud Action'. This will ensure the incident will be deleted from FRAIMS after 13 weeks, see [FRAIMS guidance - Closing an Incident](#)

8. Do not use the Status of 'Closed' as FRAIMS will delete the incident after one week.

9. Any correspondence received as part of the allegation, for example, original letters, must be retained securely and in a retrievable format in the Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence for a period not exceeding three months.

10. This allows for the completion of any necessary management checks. After three months these must be destroyed via confidential waste.

Instrument of Payment Fraud

00 Introduction

1. The following instructions enable an investigator to deal with Instruments of Payment (IOP) investigations relating to benefits paid in accordance with Social Security legislation after the initial Benefit Delivery Centre (BDC) procedures have been followed and the IOP sift criteria has been applied, for more details of the sift criteria, see [Sift criteria for referral of cheques](#)

2. Where:

- counterfeiting
- professional manipulation
- forgery
- bulk theft or
- Royal Mail involvement

is suspected, the National Cheque and Referral Intelligence Desk (NCRID) in Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence should be notified immediately.

3. NCRID **do not** deal with claimant manipulations.

4. The majority of Instrument Of Payment (IOP) investigations fall into four categories:

- IOP theft, including theft whilst in transit from a Service Delivery Centre (SDC) to either a claimant's address or their designated Post Office
- making false statements in relation to the loss of the IOP
- counterfeiting, manipulation or forgery of the IOP
- accessing a claimant's simple payment account without their knowledge or consent

5. For more information about the role of CFCD Criminal Investigations in the investigation of Identity Fraud, see [Organised Identity and Instrument of Payment Fraud \(link is external\)](#) on the CFCD web site.

01 Types of Instrument Of Payment

Background

There are two types of Instrument Of Payment (IOP):

- direct payment when the claimant has a bank/building society account
 - simple payment account when the claimant does not have a bank/building society account
- From 2 July 2012 the rolling programme of payment into simple payment accounts will commence. Once this is fully rolled out the only methods of payment by DWP will be by direct payment to banks, building society or simple payment accounts.

Direct Payment

These are payments made directly into the claimant's bank/building society account. or into a simple payment account for those who do not have a bank/building society account.

Simple Payment

The Simple Payment service has been set up by DWP and Citibank for claimants who are unable to provide bank/building society details or operate a Post Office card account.

Simple payment accounts are designed specifically for those people who are unable to use mainstream bank accounts or Post Office card accounts.

Claimants will be issued with a Simple Payment card for accessing their Simple Payment account. The card is simply an access key to the transfer of payments and has the following features in order to reduce the risk of fraud and error:

- it contains a barcode which is scanned by the PayPoint outlet
- authorised data is only accessed with the input of the claimant's memorable date, initially set by the Department as the claimant's date of birth, and Identification and Verification

Examples of identification accepted by the Post Office

Extract from the Counters Operations Manual

1. In circumstances where a claimant's validity is in doubt, evidence of identity should be requested.

2. Set out below is a list of acceptable forms of identification:

- bank Cheque Card
- birth or marriage Certificate
- Council Rent Book
- credit or charge card
- full, not provisional, Driving Licence
- Services (Forces) Identity Card
- form BF7, issued by the DWP usually to those of no fixed abode
- Girobank cheque card
- National Savings Bank book
- passport
- personal cheque book
- current trade union or trade association membership card
- membership card of a nationally known association
- Immigration and Nationality Department form SAL1

Note: This list is only a guideline; claimants may carry other forms of identification and what constitutes acceptable ID is ultimately a matter of discretion.

3. If the claimant cannot produce satisfactory evidence of identity the payment should be refused.

02 Liaison

Liaison with external bodies and PayPoint outlets

1. Liaison with both internal and external colleagues may assist in the investigation and usually takes place between Department for Work and Pensions (DWP) and the:

Royal Mail Corporate Security Helpdesk – **[Redacted]**

- Post Office (PO)
- Citibank and PayPoint outlets
- Local Authority, Local Finance Department points of contact
- Police

Citibank

2. When the investigation is in connection with a Simple Payment account, NCRID will provide details obtained from Citibank about the circumstances surrounding the case including a dispute affidavit obtained from the claimant.

3. A [Dispute Investigation Affidavit](#) (DIA) must be completed by the claimant when they are unable to access their Simple Payment account. It gives details of why they cannot access the account such as; has the card been lost or stolen and did anyone else have access to the card?

4. The investigator may require further information from Citibank. To obtain this the investigator will send a request by email to their Operational Intelligence Unit (OIU), Citibank fraud will email the answer to the OIU. All contact with Citibank must be through nominated officers within OIUs.

5. It may also be necessary for the investigator to establish that Citibank have correctly followed the process. **[Redacted]**

6. If the correct process has not been followed it may be necessary to return the case to Citibank.

Post Office staff

7. The Post Office (PO) may be able to advise:

- who cashed the Instrument of Payment (IOP)
- the claimant/third party's known associates
- details of someone acting as an agent for a number of people
- on encashment patterns
- if any video/CCTV evidence is held.

PayPoint outlets

8. **[Redacted]**

Police

9. During any IOP work, the police can be of assistance by:

- exchanging information in line with the Memorandum of Understanding (MOU) between the DWP and the Association of Chief Police for Operational Support and Investigation Co-operation (DWP/ACPO MOU) and Data Protection Act (DPA) 2018 restrictions
- taking on an investigation
- arresting offenders to enable an Interview Under Caution (IUC) to be conducted where an officer of at least Band E grade deems it suitable (England and Wales only). This cannot be considered if the offence is under Section 112 of the Social Security Administration Act (SSAA) 1992 as this is not an arrestable offence.
- **[Redacted]**

Referrals to the police

10. When all the evidence is available, it may be appropriate to refer an Instrument Of Payment (IOP) irregularity to the police.
11. Consideration should be made as to whether the investigation can be jointly worked with the police or for the police to continue with the investigation.
12. The police would prefer referrals before the claimant has been interviewed again.
13. If evidence is given to the police to pursue an investigation, a receipt must be obtained for all the evidence handed over. It is advisable to obtain the full name and the identification number of the police officer handling the case for routine update checks.
14. The police need:
 - documentation
 - a summary of the case
 - details of any action taken
 - specimen signatures
 - official forms bearing the signature of the suspected person
 - Post Office statements if applicable
 - statements taken including; the initial loss report, the initial and replacement cheques.
15. Once the police have accepted the investigation and the case is not being jointly worked, the case should be closed on FRAIMS, see [FRAIMS guidance – Closing a Case](#).

Example of Dispute Investigation Affidavit

Disputed transactions

Reference Number: (Mantis Ticket Ref. Number)

1. Please complete this form in BLOCK CAPITALS using black or blue ink
2. Please complete all relevant sections (as instructed):

Part 1: CUSTOMER DETAILS

Please check your details are correct. If not please correct where necessary.

Authorised Customer name:

Disputed transactions on **Simple Payment Card or ePayment**

Card/e-Payment number: **(10 digits only)**

Card issued to: **(Authorised Customer or Nominated 3rd Party)**

Your address:

Your phone number: **(To be completed by Citi if information is available, if not customer to complete)**

Alternative contact number: **(To be completed by Citi if information is available, if not customer to complete)**

Part 2: ABOUT THE DISPUTED TRANSACTIONS

We need you to tell us about the transactions you don't think you made. First, we'll ask you what the transactions were, and then why you are disputing them.

2A: What transactions do you dispute?

Please write below all transactions that you don't think you made ('disputed transactions'):

Transaction Date & Time	PayPoint Location	Payment Reference Number (printed on the receipt)	Transaction Amount (GBP)	Benefit Type

2B: Why are you disputing these transactions?

Please give the reason for disputing the transactions, from the table below

Reason for dispute	DESCRIPTION	TICK BOX (√)	Now fill in:
Lost	My Simple Payment card/e-Payment was lost		Part 3A
Stolen	My Simple Payment card was stolen		Part 3A
Simple Payment card not received	I didn't receive my Simple Payment card.		Part 3B
Transaction cancelled	The transaction was cancelled		Part 3C
Other	Please specify:		Part 3D

Part 3: MORE INFORMATION WE NEED FROM YOU

Please give us more details about the reason you're disputing these transactions.

3A Lost/ Stolen

My Simple Payment card/ePayment was:

Lost Stolen (tick one)

on date at time

Where were you when this happened?

Try to give us an explanation of what happened:

Have you lost any of your Proof of Identity documents as well as your card?

Yes No (tick one).

If yes, please tell us the details.

3B Simple Payment card not received

My Simple Payment card was not received.

I realised that I had not received my Simple Payment card

on date at time

When I realised my Simple Payment card had not been received, my address was:

I have I have not (tick one) changed my address within the last 28 days.

If you have changed your address, please complete the following:

I informed the Simple Payment customer services about this change

in writing by phone (tick one)

on date

I realised that I had not received my Simple Payment card

on date at time

If you know the name of anyone now living at your former address, or if you can give us any more information which may help us investigate, please give details below:

3C Transaction cancelled:

I visited the PayPoint outlet, but the transaction was cancelled.

Please enclose a **copy** of the receipt confirming that the transaction was cancelled.

The reason given for the cancellation was that:

3D Any other reason

I did not visit the PayPoint outlet to withdraw this amount.

I realised that my

Simple Payment card • ePayment (tick one)

had been misused

on date at time

I confirm that I have the

Simple Payment Card ePayment (tick one)

in my possession.

Please name anyone who may have had access to your Simple Payment card / ePayment, and state their relationship to you:

Please give us any extra information which may help us investigate this case:

Part 4. DECLARATION

I, -----the Authorised Customer/Legal Nominee hereby confirm that I did not take part in the transactions described in Part 2A, and that I did not benefit from any of the transactions, directly or indirectly. I did not authorise any third party to use my Simple Payment Card/ePayment and I do not know who conducted the transactions.

Under the Data Protection Act 2018, I authorise Citibank N.A and the relevant Government Department to discuss details of the disputed transactions with the police, Royal Mail and any other agency, financial institution or PayPoint that may help in the investigation of this claim.

If the investigation confirms I was involved in the disputed transactions directly or indirectly, then I acknowledge that I may be both civilly liable and subject to criminal prosecution.

Authorised Customer Signature/Legal Nominee Signature (circle as appropriate)

Full Name

Date

03 Conducting an Instrument of Payment investigation

Access To Work and other non-benefit losses

1. Where Instrument Of Payment (IOP) fraud is suspected in respect of non-benefit payments, for example:

- Access To Work (AtW)
- Flexible Support Fund (FSF), including payments to remove claimants' barriers to work, and travel expenses to job interviews
- referral must be sent to the central Counter Fraud and Compliance Directorate (CFCD) Investigations Single Point Of Contact (SPOC) at the address below:

[Redacted]

2. For further information, see [Access to Work and Flexible Support Fund Investigations](#).

Bulk losses

3. Bulk losses of Instrument Of Payments (IOPs) are initially analysed by National Cheque and Referral Intelligence Desk (NCRID), who are part of Counter Fraud and Compliance Directorate Criminal Intelligence.

4. The definition of bulk losses is where any of the following apply:

- a large number of IOPs in an area are reported lost or not received by claimants in a very short period, this may identify a batch of cheques that might have gone missing
 - the Post Office (PO) or Royal Mail states that a batch of IOPs are missing, delayed or stolen
 - **[Redacted]**
5. Any initial suspicion of bulk losses must be notified to NCRID. The notifications of bulk losses should be forwarded to:

[Redacted]

6. The [NCRID web page \(link is external\)](#) explains the work of NCRID

7. If, following initial analysis, NCRID identify a bulk loss as a case suitable for investigation they must raise a Fraud Referral Form (FRF).

8. When a pattern of encashment is established a master file should be created. All the cheques associated with the bulk loss can be assigned to the master file.

Initial loss interview

9. Initial loss reports will be dealt with in accordance with Benefit Delivery Centre (BDC) procedures.

- the claimant completes a Dispute Investigation Affidavit (DIA) issued by Citibank if the loss is in connection with a simple payment account
- Citibank scans the DIA and associated documents and emails them securely to the Referral Intelligence Desk (NCRID) in-box
- NCRID applies the sift criteria
- if an investigation is appropriate an FRF will be raised by NCRID and refer to CFCD Criminal Investigation
- CFCD Criminal Investigation will enter the case on FRAIMS and accept the case for investigation or refer to CFCD Investigations. see [FRAIMS guidance – Transferring a case](#).

Sift criteria not met

10. If, on further checking, it is decided the sift criteria is not met or an investigation is not to be pursued, close the case on FRAIMS with the Outcome of 'No Result', see [FRAIMS guidance – Closing a Case](#).

11. Return the IOP papers to the BDC to carry out normal BDC procedures.

Multiple Instrument of Payment investigations

12. A separate FRF and subsequent case must be raised for each IOP irregularity, when more than one IOP irregularity is to be investigated simultaneously in respect of the same claimant, see [FRAIMS guidance – Pro-Active Operations - Complete FRF](#).

Cheques, crossed cheques or payable orders cashed through a third party

13. Cheques, crossed cheques and payable orders are noted 'Not negotiable' but this relates to the amount only. Claimants can authorise a third party to cash/receive them.

14. Cheques are normally cashed at the nominated Post Office (PO) but all these payments could be cashed through other financial institutions, such as banks, building societies or cheque cashing shops.

15. Sometimes a third person may innocently receive the payment to cash and be unaware that the claimant intends to defraud the Department for Work and Pensions (DWP).

Payment through bank, building society or other financial institution

16. Cheques, crossed cheques and payable orders are sometimes passed through a bank or building society account. The identity of the account holder needs to be established. This could be via a third party or another financial institution.

17. Where a cheque has been passed through a bank, building society or other financial institution and the identity of the account holder needs to be established. Initial action should be undertaken by Counter Fraud and Compliance Directorate (CFCD), unless referral is suitable for National Cheque and Referral Intelligence Desk (NCRID). Note: NCRID do **not** deal with one-off cheques due to the cost of making the enquiry:

18. Contact NCRID at:

[Redacted]

19. Where the identity of the account holder is not known, consideration should be given, by NCRID, to referring the matter to an officer authorised under the additional powers provided by the Social Security Fraud Act (SSFA) 2001, by completing a Request For Information (RFI) on FRAIMS and sending it to CFCD Criminal Intelligence, see [FRAIMS guidance – RFI Completion](#).

20. The Authorised Officer/Intelligence Gathering Officer (IGO) decides whether it is appropriate to make a request to the financial institution with reference to the account number indicated.

21. Where the Instrument Of Payment (IOP) was issued in respect of Access to Work claims, Training Allowance with no benefit content, or for any other non-benefit purpose, use of the SSFA is not permissible.

22. Where the identity of the account holder is known, either at the outset of the investigation or following the use of Section 109B (2A) of the SSFA, the investigator needs to consider if the account holder has cashed the cheque with or without the claimant's permission.

- 23. **[Redacted]**

- 24. **[Redacted]**

25. The investigator must give consideration to interviewing the account holder under caution if they suspect that they have been involved in the fraudulent activity.

26. If the account holder is not involved in the false encashment consider taking a witness statement as part of the case against the claimant.

Simple Payment investigations

- 27. **[Redacted]**

28. In these cases if the investigator is satisfied that the claimant is not involved it will be necessary to obtain a witness statement from the claimant to establish details such as:

- who had access to their card?
- does anyone know their PIN number or have access to information that would confirm their identity such as memorable date given when simple payment account was set up?
- 29. **[Redacted]**

Counterfeiting, manipulation and forgery

Counterfeit

30. A counterfeit Instrument Of Payment (IOP) is one that has not been issued by the Department for Work and Pensions (DWP). It is a complete imitation or an unauthorised copy, of a genuine IOP, which therefore renders it a false document from the outset.

31. [Counterfeit Cheques](#) has more information about some of the signs that may indicate a counterfeit IOP

Forgery

32. Manipulation and forgery relate to the alteration of a genuine IOP. A forged IOP is one that was originally genuine but has had some form of unauthorised alteration made to it. Indications that an IOP has been forged would include:

- **[Redacted]** This list is not exhaustive, but gives some indication of a forgery.

Manipulation

33. Manipulation of a cheque can be done in a number of ways using the following methods:

- **[Redacted]**
- list is not exhaustive.
- 34. [Manipulated cheques](#) has further information about the signs that may indicate that an IOP may have been manipulated
- 35. Where a counterfeit, professionally manipulated or forged cheque is received it should be forwarded to:

[Redacted]

36. NCRID will take the necessary action in getting the cheque to the appropriate investigating team. Note: NCRID do **not** deal with claimant manipulations.

Detection by the Post Office on counterfeit, manipulated and forged IOPs

37. If the Post Office (PO) contacts Counter Fraud and Compliance Directorate (CFCD) about a counterfeit, manipulated or forged Instrument Of Payment (IOP), the following instructions should be considered:

- refuse payment
- impound the IOP
- not to cancel the IOP, due to operational circumstances
- take the following details and complete a Fraud Referral Form (FRF), for referrals to the National Cheque and Referral Intelligence Desk, do **not** complete a FRF, recording:
 - the time of the attempt
 - who presented the IOP, if known, and how the presenter was known to them
 - a description of the presenter
 - if they would recognise the presenter if seen again
 - have any unknown persons recently tried to obtain their Post Office code

38. The PO will

- place the IOP in an envelope without handling it further
- place any written description of the presenter or associate with the IOP
- secure any Closed Circuit Television (CCTV)/video tape recording of the incident and retain it with the IOP etcetera.

39. The securing of all relevant material must be followed up as per the Criminal Proceedings and Investigations Act (CPIA) 1996.

40. The PO should be instructed to forward the package to NCRID, along with a completed REW1 form to:

[Redacted]

[Redacted]

04 Interviewing the claimant

Preparing to interview a claimant

1. When all the evidence is held regarding the Instrument Of Payment (IOP) investigation but before interviewing the claimant, consider if prosecution is possible. If there are reasonable grounds to suspect an offence has been committed, conduct an Interview Under Caution (IUC).

Consideration of proceedings in IOP cases

2. Before deciding to take proceedings, the following should be taken into account:

- previous history of fraudulent activity
- is there a witness statement from Post Office (PO) staff clearly identifying the suspect?
- is the original IOP and, where appropriate, the replacement held?
- are the relevant loss report forms or Dispute Investigation Affidavit (DIA) correctly signed and dated by the claimant?
- is there an admission made at the IUC?

Interviews Under Caution

3. Before the Interview Under Caution (IUC) ensure all available evidence is at hand so that the claimant can be shown the:

- original loss report
- Dispute Investigation Affidavit (DIA)
- original payment
- replacement payment

4. For further guidance, see [Interview Under Caution – Planning and Preparation](#)

Questions that may assist in the investigation of IOP offences

5. Consider asking the claimant about postal arrangements and how they normally cash their Instrument Of Payment (IOP), for example:

- [Redacted]

Questions appropriate for simple payment offences

6. If the case is one where the claimant disputes receiving a payment into their bank/building society or simple payment account, including loss or suspected theft of their account card, the following questions could be asked:

- [Redacted]

These are only examples and the list is not exhaustive.

7. If the above information was obtained at the initial interview, it is still good practice to double check the information.

Showing documents and IOPs to the interviewee

8. During questioning, show the interviewee a sample of any signed documents, including those IOPs that have been irregularly cashed. Any IOPs shown to the interviewee should be presented in a plastic wallet.

9. Give the interviewee a chance to examine the signatures. This is useful for:

- confirming identity
 - producing documents as evidence in cases when prosecution is appropriate.
10. If the interviewee admits that the signature on the irregularly cashed IOP is theirs, advise them that it is the one they reported as lost/stolen/not received and ask for an explanation.

11. The interviewer must also establish the sequence of events to include when and where:

- [Redacted]

Claimant admits cashing both payments

12. Establish the sequence of events with the claimant and their reasons for cashing both payments. If you are satisfied the claimant has acted without intent to defraud, seek an offer to repay.

13. Send details to the Decision Maker (DM) for overpayment and recovery action, see [FRAIMS guidance – Benefit Decision - FIS & Customer Compliance](#).

Claimant admits cashing the original and the replacement has not been cashed

14. Establish the sequence of events with the claimant. Explain that the loss report they completed stated they were obtaining a replacement payment on the understanding that the original would be returned uncashed. The claimant should not, therefore, have cashed the original payment.

15. If the claimant has cashed the original but has the uncashed replacement, impound it and ensure they are given a receipt. Ensure that the uncashed replacement is noted in the valuables book.

Claimant denies cashing the IOP

16. If the claimant denies cashing the original IOP but there are similarities in handwriting, ask the claimant to explain this during the IUC.

17. It may be beneficial to refer to the initial loss report to discuss/clarify the information recorded with the claimant. Ask for their explanations and about other people in the household.

18. If the claimant continues to deny involvement, advise them that enquiries will remain open and the investigation may be referred to the police. Do not threaten the claimant with the police.

19. If the claimant is stating that:

- **[Redacted]**

20. Include this information in the IUC being taken and consider follow up action if a suspect is named.

21. If a suspect is named, a separate case must be created in that suspect's name and linked to the original suspect's case, see [FRAIMS guidance – Complete FRF](#).

Claimant is not the culprit and does not know who cashed the IOP

22. If, after conducting an IUC, the investigator is satisfied that the claimant is not the culprit, and no further investigation action is deemed to be appropriate, the case can be closed, see [FRAIMS guidance - Closing a Case](#).

23. The IOP and the outcome that no culprit has been established can be returned to the appropriate benefit processing section to ensure that write off action is taken where a replacement has been issued, write off action does not apply to Housing Benefit cheques.

Claimant is not the culprit but recognises the handwriting

24. If the investigator is satisfied that the claimant is not the culprit, but the claimant can identify the handwriting as belonging to someone they know, request a PF11 witness statement from the claimant detailing:

- **[Redacted]**

25. The investigator must consider using the new information obtained in proving that the alleged third party is responsible for cashing the IOP being investigated.

Third party established

26. As soon as a third party is established, a Fraud Referral Form (FRF) must be submitted and a new case created in the third party's name and linked to the original suspect's case.

27. The outcome of the investigation can then be recorded against the third party.

Manipulated IOP

Manipulated payable amount

28. When an Instrument Of Payment (IOP) that appears to have had the amount payable manipulated is received, an explanation should be obtained from the claimant.

29. Establish the following during the interview:

- [Redacted]

Admission obtained

- 30. [Redacted]

31. A separate Fraud Referral Form (FRF) must be completed for each IOP. When the case is received the link the new case to the existing case held, see [FRAIMS guidance – Complete FRF](#).

Repeated manipulation

32. To prevent further manipulation consider:

- [Redacted]

Professional criminal activity

33. If anyone is identified as being involved in the organised theft, counterfeiting, forgery or manipulation of IOPs a FRF must be completed.

34. FRAIMS will automatically forward this type of allegation to Counter Fraud and Compliance Directorate (CFCD) Criminal Investigations.

Specimen signatures

35. Specimen signatures can be requested from the claimant and anyone else involved in the irregular encashment by using the [KFS5 \(link is external\)](#). For information on obtaining specimen signatures see [Forensic Examination – Handwriting and document examination](#).

36. If the claimant/third party will not provide specimen signatures, do not force them. Record any reasons for refusal in the case summary of the interview.

37. Only a handwriting expert can undertake a comparison of the disputed writing with specimen writing proved known or admitted to have been written by the suspect. Their findings will be accepted or presented to courts as 'Expert Testimony'.

Post Interview under caution action

38. If an offence has been established consider prosecution, the offer of an administrative penalty or closure if appropriate.

39. Where a culprit has not been established refer to the DM for a replacement payment if appropriate and close the case.

40. When the case is closed ensure that the appropriate action is taken on FRAIMS.

Overpayment calculations

41. Where benefit is suspected of being obtained fraudulently, the case must be referred to a Decision Maker (DM) for consideration of an overpayment. The DM must be satisfied that the relevant criteria have been met. For example:

- the claimant/third party must have admitted the offence
- Post Office (PO) admits liability. For example, where an Instrument Of Payment (IOP) has obviously been altered, but is still cashed by the PO
- both the original and, where appropriate, the replacement IOP(s) are available and the balance of probability indicates that the claimant/third party cashed both IOPs

- a certificate of conviction has been obtained.
This list is not exhaustive.

05 Investigation completed

Recording the overpayment decision

1. Record the decision received from Debt Management on the 'Case Over/Underpayment' view on FRAIMS, the categories for loss will be recorded as:

- 'Recoverable' – where the Instrument Of Payment (IOP) overpayment has been classed as recoverable
- 'Non-Recoverable' – where the IOP overpayment has been classed as non-recoverable
- 'IOP Proven Lost' – where there has been a loss to the department but there is insufficient information to send to for an overpayment decision, such as, the culprit is not established and the overpayment is written off.

See [FRAIMS guidance - Recording the Overpayment Decision - FIS](#)

2. Once the investigation is finalised, record the closure details on FRAIMS.

Recording of fraud penalties for multiple IOP offences

3. An overpayment, if appropriate, should be recorded on FRAIMS for each individual case. If a fraud penalty is administered for more than one irregularity to the same person, at the same time, for example, Mr. A is prosecuted for two cheque offences on the same day, a fraud penalty result can only be recorded on FRAIMS for one of the cases. This ensures that the Management Information (MI) accurately reflects that there has been one fraud penalty on cases that involve multiple IOPs.

4. If, at the end of an investigation, a fraud penalty is administered to more than one person for example two lost cheques are investigated, the claimant has cashed one of them and a third party cashed the second any administered fraud penalties should be recorded on FRAIMS for both cases.

Post Office

The Post Office Reward Scheme

1. If the fraudulent encashment of an Instrument Of Payment (IOP) is prevented by Post Office (PO) staff actions, the PO can make an application for a £50.00 reward.

2. PO staff should apply to any financial institution to claim their reward for impounding a bank, cheque or credit card, usually £50.00. Department for Work and Pensions (DWP) staff should note on their reward forms that the DWP retains the card for investigation. This does not hinder the applicants' reward claim.

3. PO staff must submit a reward application on the REW1 and forward it to National Cheque and Referral Intelligence Desk (NCRID) with the relevant IOP. A copy of the IOP must be taken if the original is the subject of a Fraud and Error Service (FES) investigation.

4. A nominated officer within NCRID, not below the grade of AO, examines the claim and authorises a reward if appropriate. All cheques and claim forms, along with any additional information should be forwarded by the post office to:

[Redacted]

5. NCRID records and authorises the payment to the PO clerk via Purchase to Pay. The investigative process should not delay the reward claim. For further information see the [NCRID web page \(link is external\)](#).

Reimbursement

6. On occasions, if the PO does **not** fulfil their side of the Service Level Agreement (SLA), the DWP may seek reimbursement from the Post Office.

Cheque reimbursement

7. Cheque reimbursement is covered by an agreement with Santander and can be claimed when:

- the missing cheque has been replaced
- the original cheque is returned cashed
- it is not possible to recover the money from the claimant or third party, for example, no offer to repay/no fraud prosecution, etcetera and at least one of the circumstances in the following list contributed to the irregular encashment of the original cheque
- the cheque was cashed prior to the date shown on it
- the cheque has obviously been altered
- the amount in words is different to the amount in figures
- the cheque was cashed for an amount higher than the authorised limit
- the cheque was cashed at a different Post Office to the one nominated. This can be identified by the 'FAD Code' on the cheque
- the cheque was not signed or marked in ink
- the payee's mark was not witnessed
- the signature is in block capitals
- the signature differs significantly from the payee's name. Do not make a claim if the signature only varies slightly, for example, the use of an initial instead of a forename or the omission of a second initial
- an agent was used but Part A of the cheque was incomplete or incorrectly completed
- the cheque was crossed
- the Post Office received a stop payment notice at least one day before they cashed the cheque, that is a stop payment notice issued at least two days before encashment
- the cheque was cashed more than one month after issue
- the cheque was stolen as a result of Santander or Post Office negligence and irregularly cashed.

8. The QB58 should be sent to :

[Redacted]

who forward it on to Santander.

Santander accept the claim

9. If Santander accepts the claim, they advise by returning a copy of the QB58 with the acceptance box ticked, retaining a copy with any relevant paperwork. Reimbursement is made centrally.

Santander do not accept the claim

10. If Santander does not accept the claim, they return all the paperwork. On receipt, take closure action and ensure the write off action is recorded. Their decision must be accepted as there is no provision for dealing with disputes.

Suspected Post Office employee fraud

11. An investigator must never interview/contact a Post Office (PO) employee suspected of being involved in any Instrument Of Payment (IOP) irregularity or the facilitation of fraud by organised criminals.

12. Record all contact on FRAIMS and inform the Team Leader / Higher Investigations Leader.

Claimant alleges IOP has been impounded or handed to Post Office employee

13. When a claimant makes an allegation of this type the offence type of Instrument Of Payment (IOP) must be recorded on the Fraud Referral Form (FRF).

07 Referrals of cheques

Sift criteria for referral of cheques

1. In order to meet the Department for Work and Pensions (DWP) steer on fraud penalty outcomes, only cases that have a high chance of a successful fraud penalty outcome should be referred for criminal action.

2. The criteria listed in the following links must be examined in strict order:

- [Referrals allocated to National Cheque and Referral Intelligence Desk](#)
- [Referrals to Counter Fraud and Compliance Directorate](#)

3. Where a cheque meets Counter Fraud and Compliance Directorate (CFCD) criterion, a Fraud Referral Form (FRF) should be completed, if applicable. Referrals suitable for the National Cheque and Referral Intelligence Desk (NCRID) do **not** require a FRF.

4. The cheque must be retained in a secure place to await contact from CFCD. An investigator will arrange to obtain the cheque once the FRF has become a fraud case.

Referrals allocated to National Cheque and Referral Intelligence Desk

5. The following Instrument Of Payment (IOP) cases must be referred to the National Cheque and Referral Intelligence Desk (NCRID), who will take the necessary action in getting the cheque or other documents to the appropriate investigation team:

- [Redacted]

6. Refer cases to NCRID at:

[Redacted]

Manipulated cheques

7. Manipulation relates to the alteration of a genuine cheque. Indications that a cheque has been manipulated will include the following and may not be immediately obvious:

- [Redacted]

This list is not exhaustive, but will give some indication of a manipulated cheque.

8. NCRID do **not** deal with cheques that have been manipulated by the claimant, often using a pen, or any other person who is not part of organised fraud. Any of these cheques that are received by NCRID will be returned to the issuing office.

9. Physical changes to the cheque resulting from manipulations would include:

- [Redacted]

This list is not exhaustive.

Third party encashment through bank accounts/building societies

10. These cheques may be signed on the back by an agent/third party and put through his/her bank of building society account. You should look out for cheques where the:

- [Redacted]

The above list is not exhaustive.

Third party encashment through Post Office

11. Similar criteria apply to those cheques cashed by an agent seemingly on behalf of the claimant. These should only be referred if the signature does **not** match that of the claimant and if the cheque has been manipulated.

12. NCRID do **not** deal with third party cheques cashed at a PO without a professional manipulation.

Counterfeit cheques

13. A counterfeit cheque is one that has not been issued by the Department for Work and Pensions (DWP). It is an imitation, or an unauthorised copy made of a genuine cheque, which therefore renders it a false document from the outset. Some indications of a counterfeit cheque include the following:

- **[Redacted]**

The above list is not exhaustive.

Suspected Post Office/Royal Mail employee fraud

14. Refer where:

- **[Redacted]**

Bulk thefts and losses

15. Refer individual cheques where there has been:

- **[Redacted]**

Simple Payment Account Fraud

16. Cases referred to NCRID by Citibank where it is suspected that the account has been accessed by a third party.

17. Lost or stolen simple account cards will be dealt with initially by Citibank.

Referrals to

18. The following Instrument Of Payment (IOP) cases must be referred to Counter Fraud and Compliance Directorate (CFCD) for initial action to be undertaken:

Involvement of money/cheque shops

19. **[Redacted]**

- 20. **[Redacted]**

Third and subsequent reports of loss or non-receipt

21. All sources available must be checked to identify previous reports of loss or non-receipt.

22. All cases that have been accepted for criminal action will count towards this and all cases where three previous reports of loss or non-receipt are identified will be referred to CFCD.

Evidence for Simple Payment Account offences

23. If the investigator is satisfied that the claimant is not involved a witness statement must be obtained from them to include who has access to their card or know their memorial date or other identification features.

- 24. **[Redacted]**

Consideration of mental ability and age of claimant

25. There may be occasions where due to a claimant's mental ability and age a referral to CFCD is not appropriate. Information within departmental records should be accessed for those cases that appear to fit the criteria.

26. Cases not deemed appropriate for Interview Under Caution (IUC) should be passed for action via the Benefit Delivery Centre (BDC).

27. If someone has been selected to act as appointee on behalf of the claimant, at the time of the abuse taking place, action should continue against the appointee in the normal way

Intelligence Gathering

00 Introduction

These instructions provide guidance for officers within the Counter Fraud and Compliance Directorate (CFCD) including the processes involved to obtain intelligence gathering under Social Security Fraud Act (SSFA) 2001 powers. It is the intention that these powers are always used where it is considered reasonable to do so.

CFCD Criminal Intelligence use these instruction to make sure a consistent approach to obtaining intelligence in fraud investigations.

For intelligence gathering to be legal and justified, the intrusion into a person's privacy must be both necessary and proportionate and in accordance with the relevant legislation.

SSFA 2001 powers must be used responsibly. Authorised Officers within CFCD Criminal Intelligence must consider whether the information could be obtained without using the powers.

SSFA 2001 powers apply to criminal investigations. As the Financial Investigation Unit (FIU) conduct civil investigations, FIU investigators are unable to use these powers.

These instructions must be read in conjunction with the current version of SSFA 2001 Code of Practice (CoP) on Obtaining Information, Version 2.

Note: The CoP is a Statutory Code of Practice, and as such Authorised Officers are required by law to have regard to its provisions: SSFA s.3(6).

This guidance does not supersede the CoP and must be read in conjunction with the following:

- Social Security Administration Act (SSAA) 1992, as amended by:
 - Social Security Administration (Fraud) Act 1997
 - Child Support, Pensions and Social Security Act 2000
 - Social Security Fraud Act 2001
 - Social Security Administration Act 1992 (Amendment) Order 2002
- relevant Partnership Agreements (PAs), Service Level Agreements (SLAs) and Memoranda of Understanding (MOUs)
- Data Protection Act (DPA) 2018
- Human Rights Act (HRA) 1998
- other relevant Acts of Parliament and Codes of Practice, for example

- Police and Criminal Evidence (PACE) Act 1984 - England & Wales
- Regulation of Investigatory Powers Act (RIPA) 2000
- Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) 2000
- Criminal Procedure and Investigations (CPIA) Act 1996
- the Audit Commission National Fraud Initiative
- disclosure of personal information.

01 Data Protection Act 2018

1. Information must always be requested under Social Security Administration Act (SSAA) 1992 or SSFA 2001 powers when legislation under these acts allows it. See: [National Standards Instructions \(NSIM\) OIU processes for Investigators and Intelligence Gathering Officers](#) for further details.

2. If the request cannot be made under SSAA 1992 or SSFA 2001 the request must be made under Schedule 2 para 2(1) of Data Protection Act (DPA) 2018 unless it is information that is in the Public Domain.

3. For more information regarding the legislation to be used when making requests to various bodies, see: [Who Does What](#).

Obtaining Information under the Data Protection Act 2018

12. If the information providers do not fall within the prescribed list of organisations that are required to provide information under the SSAA 1992 or the SSFA 2001, then the department cannot use the information requesting powers under these Acts to require the information providers to disclose information.

13. In these circumstances the requests for information must be made under Schedule 2 para 2(1) of the Data Protection Act (DPA) 2018.

14. Requests for information from BSkyB must also be made under Schedule 2 of the DPA 2018 due to Department for Work and Pensions (DWP) policy.

15. If the information provider does not reply within 28 working days or refuses to provide the information requested, a further letter must be sent to them to reconsider their position.

16. The letter must explain that if they wilfully refuse to provide the information requested the DWP solicitors will consider applying to the court for a witness summons under Rule 28.3 of the Criminal Procedure Rules 2010 if criminal proceedings are appropriate.

17. If the information provider still refuses to provide the information or does not respond to the reminder, the Intelligence Gathering Officer (IGO) must complete a witness statement confirming that enquiries have been made but the information provider has failed to provide the information requested.

18. Whether information has been provided or not the case must be referred to the investigator to continue with the investigation and arrange for the prosecution file to be prepared as normal if appropriate.

19. If the information providers have supplied the requested information they must be asked to provide a witness statement once the Team Leader (TL) or Higher Investigations Leader (HIL) has decided that prosecution is appropriate.

20. If an information provider refuses to supply a witness statement the investigator must exhibit the information in their own statement and add the following hearsay clause:

“Exhibit xx1 was created by a person in the course of profession or occupation. The person who supplied the information contained in Exhibit xx1 had or may reasonably be supposed to have had personal knowledge of the matters dealt with. Each person through whom the information was supplied, received the information in the course of a profession or occupation and the person who supplied the information in Exhibit xx1 cannot reasonably be expected to

have any recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all of the other circumstances.”

21. If this evidence is not admitted or is contested, the Crown Prosecution Service lawyer will consider applying for a witness summons to compel a witness from the information provider to attend Court to give oral evidence on the information they have provided.

Reciprocal arrangements for Northern Ireland Social Security Agency (NISSA)

22. [The Social Security Investigation Powers \(Arrangements with Northern Ireland\) Regulations 2007 \(link is external\)](#), introduced reciprocal arrangements between Great Britain and Northern Ireland. This enables Authorised Officers in Northern Ireland to obtain information from information providers in Great Britain, and vice versa

02 Counter Fraud and Compliance Directorate Criminal Intelligence role

Role

1. Legislation has required the development of more specialist skills in order to operate, Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence separates the intelligence and investigation functions in order to enhance both.
2. This process ensures that Department for Work and Pensions (DWP) procedures and instructions are robust and legal.
3. Authorised Officer (AO)/Intelligence Gathering Officers (IGOs) of Band C grade are based within CFCD Criminal Intelligence Operational Intelligence Unit (OIU).
4. These officers are authorised under the powers introduced by Social Security Fraud Act (SSFA) 2001, which permits them to obtain information from third parties where justifiable.
5. It is the responsibility of the AO/IGO to ensure that enquiries undertaken are made utilising the appropriate legislation.

Standard operating guidance for Information Gathering Officers

6. Standard Operating Guidance for IGOs has been developed by Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence.
7. This covers the day to day duties of an IGO and gives an overview of their Key Work Objectives (KWO), offence and investigation types and submissions to the Financial Investigation Unit (FIU).
8. Also see the Points To Prove Aide-memoires, all available on the [CFCD site \(link is external\)](#).

SSFA Authorised Officers

9. Only officers that have received authorisation may make requests for information using Social Security Fraud Act (SSFA) 2001 powers. These officers are Authorised Officers as defined in legislation and will have received full Learning and Development in the correct application of these powers.
10. Authorised Officers must hold a certificate of their authority and are required to include a copy of the certificate with each enquiry made, as per the Statutory Code of Practice (CoP), except when making an enquiry on-line, where different security measures are applied, for example, user name and password.

11. When obtaining information from organisations in the public and private sector, SSFA Authorised Officers are bound by Department for Work and Pensions (DWP) policy and Social Security legislation and other legislation, such as the Data Protection Act (DPA) 2018, to observe confidentiality and security at all times.

12. Information providers have access to a list of current SSFA Authorised Officers on a secure website in order to validate the request.

13. SSFA 2001 Authorised Officers are **NOT** the same as DWP Authorised Officers, who use powers under Section 109A to make requests under 109B(2) and 109C to obtain information from employers, the self employed, contractors, pension providers and licensing authorities.

Use of the database of central points of contact

Central points of contact

14. Paragraph 4.4 of the Statutory Code of Practice on Obtaining Information (paragraph 4.4) states:

“All enquiries will be made to the organisation involved. This is because it is organisations that are listed in the legislation (Section 109A(2A) of the Administration Act) on whom the requirement to provide information is placed. The DWP Professional Standards Unit will maintain a list of information providers who have specified a central point of contact for requests. This list will be made available to Authorised Officers. If an organisation nominates a particular person then enquiries will be to the organisation care of that person. If an individual has not been nominated, then the enquiry must be addressed to the organisation, care of the most senior individual within that organisation that the Authorised Officer can identify. If there were evidence of intentional failure to provide information it would be the organisation that faced prosecution and not the individual. Initially, refusals would be taken to the most senior level in an organisation in order to secure compliance with a request. In exceptional circumstances, it is possible that only an individual rather than the precise name of an organisation could be identified. Where this happened then the request would be made to the most senior person that could be identified and they would be personally liable for not meeting the request.”

15. A database of central points of contact within organisations has been compiled and is available within FRAIMS. Local Authority Authorised Officers have access to a copy of the database via a secure area of the Department for Work and Pensions (DWP) website.

16. Note that although the Statutory Code of Practice states that the ‘Professional Standards Unit’ will maintain the database, administration of the database is undertaken by CFCD Criminal Intelligence, **[Redacted]**

The database

17. The database contains the ‘brand names’ of a variety of organisations that may be required to provide information within the meaning of SSFA, so that an Authorised Officer may locate either the organisation itself or the ‘brand name’ by which it is better known.

18. This enables quick identification of the central point of contact for enquiries. In the case of large financial institutions such as banks, the central point of contact needs to know the brand name in order to locate the relevant customer record or refer the request to the correct part of the organisation.

19. For example, **[Redacted]** FRAIMS should be used to locate the record relating to **[Redacted]** and a letter generated. The enquiry is made to the identified contact point that, in this instance, is located within **[Redacted]**.

20. When the relevant organisation or ‘brand name’ has been identified FRAIMS will generate a standard letter to the central point of contact.

Organisation is not listed on the database

21. If an individual point of contact has not been nominated the enquiry must be addressed to the organisation, care of the most senior individual within that organisation that the Authorised Officer can identify, for example the Chief Executive.

22. If a reply from such an organisation indicates that they wish to nominate a central point of contact, notify CFCD Criminal Intelligence [Redacted] who will liaise with the organisation and arrange to make the required amendments on FRAIMS.

03 Requests for intelligence gathering

Making the request

1. When during the course of the investigation the case requires an approach to the Information Gathering Officer (IGO) in the Operational Intelligence Unit (OIU), the investigator must complete the on-line Request For Information (RFI), see [FRAIMS guidance - RFI Completion](#).

2. The RFI is accessed through FRAIMS and must be completed in all cases where an approach to the OIU is to be made to consider obtaining information.

3. Before completing the RFI, the investigator must ensure that all suspect details held on the FRAIMS case are fully completed and the address checked to ensure it is current and the 'Primary Address' ticked, see [FRAIMS guidance – Amending Suspect Records](#).

4. If details of additional suspect are not already recorded on the case it will be necessary to create a suspect record and add their:

- current address,
- National Insurance Number (NINo),
- Date Of Birth in the 'Comments' field.

See [FRAIMS guidance – Creating a Suspect record](#).

5. This information will be used by the IGO if enquiries about persons other than the primary suspect are made.

6. Before creating the RFI request on FRAIMS, users must create an activity and add a minute to provide additional information for the IGO, this activity must include details of the:

- allegation(s)
- claim to benefit(s) – including:
 - current claim type, including details of dependants and start date,
 - rate of benefit in payment and method of payment,
 - dates of previous claims to benefits,
 - details of any known bank accounts,
- alleged partner for living together cases.

See [FRAIMS guidance – RFI Opening Minute](#).

7. Once completed, the Higher Intelligence Leader (HIL) in the OIU appropriate to the Counter Fraud and Compliance Directorate is associated to the case to enable them to see the RFI and assign the case to the appropriate IGO.

8. The IGO decides, on the merits of each case, if it is appropriate to comply with the request.

9. During the development of intelligence or investigation it may be necessary to request information about one or more subjects from more than one source, or in respect of one subject from numerous sources. In these circumstances the completion of one form RFI for all the required information is acceptable.

Factors to consider when completing the Request for Information

10. Identity details of the subject of the information request, for example; who is the information required concerning? In many cases, this is the subject of the investigation but in others, such as:

- serious fraud cases
- living together cases that require a Her Majesty's Revenue and Customs (HMRC) enquiry
- living together cases where there is a link where 'nexus' has been established
- collusive employer cases
this may be a third party.

Information required and potential sources of information

11. Before completing the Request for Information (RFI) the investigator must be clear exactly what information is required in order to progress the investigation and whether this information must be requested by the Intelligence Gathering Officer (IGO) within the Operational Intelligence Unit (OIU).

12. For more information, see [Obtaining information using Social Security Fraud Act Powers](#).

Completing the RFI

You must:

[Redacted]

You must not:

- directly copy and paste Routing Minute details into your own Opening Minute. See [Request For Information Desk Aid](#) for more details on the information required for RFI
- be afraid to call us if you need advice or assistance.

13. As the fields on the RFI are limited, the investigator must enter as a minimum the following details, ensuring that the information required is clearly defined:

- what information is required and the possible sources for obtaining the information?
- why the information is required?
- what other action has been taken to obtain the information or reasons why it cannot be obtained by any other means? and
- how the information assists the progress of the investigation to a fraud penalty standard.

14. Any additional information supporting the application should be entered in the **Explanation** and **Explanation2** fields.

15. If contact has been made with the claimant who has then failed or refused to supply the information the investigator should complete the details in the **Description** field. The IGO determines the best source for obtaining that information.

16. For more information on completing the RFI on FRAIMS, see [FRAIMS guidance - RFI Completion](#).

Necessity and proportionality

17. The European Convention on Human Rights was incorporated into UK domestic law by the Human Rights Act (HRA) 1998. Article 8 provides for a right to respect for private life.

18. It allows public authorities to interfere with this only in accordance with the law and to the extent necessary and proportionate in the interests of certain specified matters, including the prevention of crime.

19. IGOs identify relevant legal gateways to provide for the lawful interference with this right.

20. Investigators must provide reasons why this interference is necessary and proportionate, for more information see [Request For Information desk aide](#).

Less intrusive means

21. A request can be considered necessary only if other, less intrusive means have been either explored or considered. This does not mean that the claimant must be asked for the information in every case, but it does mean that the investigator must consider asking the claimant.

22. The Code of Practice (COP) states:

[Redacted]

23. The decision on whether approaching the claimant will have a detrimental effect on the investigation is the responsibility of the investigator.

24. The investigator must provide a brief summary of the reasons for this decision in the 'Description' field and the IGO will accept this.

25. Social Security Fraud Act (SSFA) 2001 powers are used to obtain information in cases accepted for investigation of capital received as a result of data matching, it is not necessary to interview the claimant prior to using SSFA 2001 powers.

26. **[Redacted]**

Request For Information Desk Aid

Collateral information

27. Investigators should not request the IGO to obtain information about either innocent third parties, or unnecessary information about the subject of the investigation, for example; information that is not relevant to periods covered by benefit claims.

28. The following information is required when completing the embedded Request For Information (RFI on FRAIMS):

Action by the investigator

29. The investigator must complete a comprehensive opening minute as an 'Activity', which should include:

- benefit in receipt
- date of claim
- dependants noted upon claim
- full details of allegation
- length of offence and
- how benefit is administered; if paid by ACT, give full details of account.

30. A separate 'Activity' is also required by the investigator for the requesting/receipt of both the clerical papers and any located previous investigations.

31. The RFI form is embedded on FRAIMS, the following sections provide guidance on the considerations that should be made before completing the fields:

Explanation of the information, which is desired as a result of authorisation. What other intrusive enquiries have been considered and/or carried out?

32. Using the 'Explanation' and 'Explanation 2' fields, the investigator should input: what information is required, who the information is required from and why the information is required.

33. The investigator should make note of any lesser intrusive avenues that have been explored, by prompting the Intelligence Gathering Officer (IGO) to the relevant 'Activity' for example; CIS, eNirs2, Local Authority, Child Support Agency, Tax Credits, etcetera.

Why is request proportionate?

34. Using the 'Reason' field, the investigator must justify why each request is proportionate and also make a brief explanation of the considerations as to why the suspect has not been approached.

What are the risks of obtaining collateral information?

35. The information received from a third party may not be relevant to an individual(s) connected to the investigation.

36. In the 'Risks' field, the investigator should document considerations concerning this and explain how the information will be treated in accordance with Departmental policy.

Action by Intelligence Gathering Officer

37. On receipt of a completed RFI request the Intelligence Gathering Officer (IGO) must consider the details on the RFI.

Intelligence Gathering Officer's review of application

38. Using the 'Review' and 'Review Cont' field record a brief overview of the case RFI including clarification as to what the investigator has requested and why.

39. It is the IGO's discretion to what exactly is put in the review but due to space restriction on the RFI minimal review information is acceptable.

Intelligence Gathering Officer's decision

40. In the 'Decision' and 'Decision Cont' fields, the IGO should details exactly what enquiries they are authorising, from whom and why, and incorporate the relevant legislation.

41. The IGO should also record details of any requested enquiries that are not being progressed and why.

42. Any additional or alternative enquiries identified by the IGO should also be included.

43. The authorising IGO has complete autonomy of their decision but a comprehensive explanation should be given.

Intelligence Gathering Officer's review of information received

44. When information is received as a result of any enquiry, the IGO must review the information and document their considerations in the 'Info Received Review' and 'Info Received Cont:' fields.

Request for Information - Follow on Request

45. The IGO should record any subsequent authorisation that is made after initial enquiries have been completed such as, if CRA checks highlight any further accounts and the IGO is to make further enquiries, they should be noted in this area quoting relevant legislation.

Additional request by the investigator

46. If the investigator requires an additional request whilst the RFI is still allocated at the OIU, a new 'Activity' should be created and sent to the IGO.

47. If an RFI has been completed and returned by the OIU and investigator requires further information, a new RFI must be completed.

Resolution Process

1. If after the submission of a completed Request for Information (RFI) form, the investigator is not satisfied with the decision or the action taken, the investigator will contact the Information Gathering Officer IGO responsible to discuss the issue.
2. If the issue is resolved, action on the case will continue and if necessary a new RFI form will be submitted
3. If the issue cannot be resolved; the investigator will consult their Fraud Team Leader (FTL) who will then approach the Operational Intelligence Unit (OIU) Manager to discuss further. The OIU Manager will record details of the discussion on an activity in FRAIMS.
4. If after all discussions; the issue remains unresolved, the investigator should complete the National Standards Issue form to take escalation action. The template is also to be sent to their FTL.
5. Upon agreement, the FTL will forward the National Standards Issue escalation template to **[Redacted]**
6. Receipt of the National Standards Issue escalation template will be registered on FRAIMS and noted as 'CAM Review.' A holding email will be forwarded to the FTL. All issues raised will be reviewed and actions agreed when the case is referred to the Customer Account Manager Group, which includes the OIU Managers.
7. The OIU Manager will discuss the outcome from the CAM Review with the IGO Decision Maker. If appropriate, the IGO will be asked to reconsider their decision. If necessary, the OIU Manager will instigate the peer review to ensure a consistent, common approach to the RFI processing.
8. The OIU Manager will contact the FTL to advise of the outcome and provide a confirmation email. FRAIMS will be updated with all outcomes.

04 Social Security Fraud Act Intelligence Gathering Officer actions

Considering the initial application

1. Guidance in this section should be read in conjunction with [FRAIMS Guidance – Request for Information](#)
2. When the completed Request For Information (RFI) is received the Counter Fraud and Compliance Directorate (CFCD) Intelligence Gathering Officer (IGO) will decide whether the application can be:
 - approved
 - refused or
 - rejected.
3. The IGO will document their decision and details on the RFI which legislation supports the information request
4. The IGO considers all the facts of the case known to them at the time when deciding what is reasonable, necessary and proportionate.
5. If they need to use Social Security Fraud Act (SSFA) 2001 powers, they may refer to the information provider fact sheets, see [Obtaining information using SSFA powers](#).

6. The IGO must ensure each decision:

- is made on the merits of the case
- relates to the use of available powers

Requesting information

7. Use of the standard letters incorporated into FRAIMS to support SSFA is described in [Standard forms](#).

8. Details of the letters to be issued and the process for how to produce the letters is described in the FRAIMS guidance.

9. All forms and letters issued to Information Providers must be signed by the IGO, an officer not below the grade of Band C.

10. If the Criminal Intelligence team operates with support staff who produce the requests to information providers on behalf of the IGO, the activities performed must be recorded on FRAIMS..

11. FRAIMS contains a database of central points of contact for SSFA 2001 information providers.

12. All requests are made in writing, by post or fax, or on-line having regard to preferences expressed by the information providers, and the availability of on-line access.

13. E-mail **must not** be used in order to comply with the [Departmental Electronic Media Policy](#).

14. In SSFA 2001 cases, a response should be received in 10 working days, see paragraph 4.7 in the Statutory Code of Practice. A FRAIMS 'Due Date' should be set for the 15th calendar day, this will automatically insert the reply date into the request letter.

15. In other cases, the response date will be no more than 20 working days after the date of request.

16. In SSFA cases, where a reply is not received within time limits and no contact has been made, the SSFA IGO should send a reminder and await a response for a further five days.

17. In other cases, if no reply has been received by the response date, reminder action must be considered and any action taken recorded on FRAIMS

18. If no reason is given for the delay, or the SSFA IGO has concerns over the circumstances of the delay, contact the Senior Investigations Leader below. This also applies in cases where the information provider refuses to cooperate.

[Redacted]

19. Information providers are contacted to establish the reasons for non-compliance and are advised regarding further action. This may include prosecution under Section 111 of the SSAA 2001.

20. Under Section 111 of the SSAA 2001, it is an offence to:

- intentionally delay or obstruct AO in the exercise of their powers
 - refuse, or neglect to:
 -
 - answer any questions
 - furnish any information
 - produce any documents
- when required to do so by an IGO.

21. Once the reply is returned from the information provider to the Criminal Intelligence OIU, it is recorded on FRAIMS and the intelligence is forwarded to the Investigator.

22. The IGO must ensure the information received:

- relates to the correct person(s)
- is specific to the request
- does not include information that is irrelevant to the request, see [Collateral Information](#).

23. Once the IGO is satisfied that the information received is relevant, they evaluate it and, if necessary, consider further intelligence gathering requests.

24. Where the IGO determines further information requests would not add value to the investigation, they should record their reasons on FRAIMS, see [FRAIMS guidance - Intelligence gathering complete](#).

25. If the applicant then wishes to make additional information requests a new Request For Information (RFI) will need to be completed on FRAIMS, see [FRAIMS guidance - Request for Information - RFI Completion](#).

26. The Criminal Intelligence OIU **must not** retain a copy of any information obtained, as to do so would be a breach of the [Information Management Policy \(link is external\)](#).

Follow-on requests

27. Once the Intelligence Gathering Officer (IGO) has decided that further intelligence gathering requests are appropriate they record this decision on FRAIMS, outlining their thought processes, including the necessity and proportionality of any follow-on-request, their conclusions and any conversations with the applicant.

28. They consider any potential delay to the investigation, particularly where the subject of the Request For Information (RFI) has been interviewed about the alleged offence/query and, if in any doubt, contact the applicant to discuss these issues, see [FRAIMS guidance – Follow on requests to be made](#).

29. This process may be completed as many times as required in order to obtain information that adds value to the investigation.

30. If a response from an information provider is not received within the stated period and no further requests have to be issued, the IGO must update the activity created when the request was sent, see [FRAIMS guidance – Response not received – No further action required](#).

Collateral information

31. When making a request to information providers, the Intelligence Gathering Officer (IGO) must be specific regarding the information required. This is to reduce the risk of obtaining third party information not connected to the investigation.

32. When it is not possible for the information provider to edit out third party information, the IGO must consider the third party content.

33. If the IGO can determine that it is not relevant to the investigation and amounts to collateral information, the third party information must be blanked out as not relevant. The document must be photocopied and the original destroyed.

34. If the IGO cannot determine whether the information is relevant to the investigation, none of the information should be blanked out.

35. The IGO must bring to the attention of the investigator in the comments field of the relevant activity in FRAIMS that third party information was supplied by the information provider.

36. This field must also state that the third party information has either been blanked out and the original document photocopied and destroyed, or the matter has been left for the investigator to decide whether the third party information is relevant.

37. If the investigator then decides that the third party information is not relevant and therefore collateral information, the investigator must blank out the third party information, photocopy

the document and then destroy the original. This action must be recorded in the FRAIMS activity field.

38. There is no requirement under the Criminal Procedures and Investigations Act (CPIA) 1996 to retain third party information that is not relevant to the investigation or to record it on any of the unused material schedules.

Intelligence gathering completed

39. When all intelligence gathering has been completed, the case owner must be informed within FRAIMS, see [FRAIMS guidance - Notifying the Case owner that Intelligence Gathering is complete](#).

40. When the approver has completed all their actions, either advising the case owner of a rejected/incomplete Request For Information (RFI) or that intelligence gathering is complete, the case owner must remove the Higher Intelligence Leader and the Intelligence Gathering Officer from the case, see [FRAIMS guidance - Removing the Fraud Investigator \(Intelligence\) from the Case](#).

41. IGOs who obtain information and investigator who receive information from organisations in the public and private sector are bound by law to observe confidentiality and security at all times.

42. DWP **must** ensure that when information is obtained it is kept in secure storage conditions, for example, lockable cabinets.

Refusal or rejection of requests

43. If the Intelligence Gathering Officer (IGO) is considering refusing/rejecting a request they should discuss the reasons with the applicant.

44. Having done so, if a decision to refuse/reject the request is made, the reasons for refusal/rejection must be on FRAIMS, see [FRAIMS guidance – Notifying the case owner of a rejected/incomplete RFI](#).

45. Criminal Intelligence Operational Intelligence Units (OIUs) should ensure the OIU Higher Intelligence Leader, where considered appropriate, is alerted to all rejected requests for checking purposes to ensure consistency of refusal/rejection within the OIU.

Standard forms

Use of standard forms

46. A series of standard enquiry forms has been produced to make enquiries of organisations in the public and private sector who are required to provide information by virtue of them falling within s.109B (2A) of the Social Security Administration Act (SSFA) 1992.

Design of the standard forms

47. These forms have been designed to standardise the process of requesting information under powers contained in SSFA 2001. These forms, together with a database of central points of contact within information providers, are part of FRAIMS.

48. They are designed to request information that is of use as an initial enquiry but not to request more information than is necessary. Standard forms ensure that such requests are made in simple unambiguous terms that are clear to both Authorised Officers and information providers.

49. Enquiries to Social Services confirming that children are in care should only be made on the [DPA SS \(link is external\)](#) which has been specifically designed for this purpose. No other forms should be used for this type of enquiry.

50. The powers to request information are not limited to the basic questions on the forms. An information provider can be contacted for any information that they hold about their customer

provided it is necessary, proportionate and reasonable to do so. A free-text box is provided for this.

51. These forms have been approved by Departmental lawyers and, in most cases, have been developed in conjunction with the information providers themselves or their representative trade bodies.

SSFA 2001 requests

52. Points to note:

- the subject of the enquiry must be included on each form. This is the information provider's commercial customer, student etc. and does not have to be the benefit claimant.
- the Intelligence Gathering Officer (IGO) should include a copy of their Certificate of Authorisation with every enquiry.
- each enquiry should relate to one subject and one organisation only.
- in the case of enquiries to utility companies, information cannot be directly requested about addresses. Any enquiry must relate to an individual identified by name or description.
- in the case of financial institutions, enquiries may be made in respect of accounts operated either individually or jointly by the subject of the enquiry. If the name(s) of the other account holder(s) is known, this should be included.
- in the case of enquiries relating to students, the home, rather than the term-time, address should be used.

05 Commissioning an Analyst

What can an Analyst do?

Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence analysts can assist with both volume and organised fraud investigations:

- by providing assistance on individual cases and
 - by giving a strategic view to identify fraud trends on a national or local basis.
- Information about the work of the Analyst Team and details of the types of assistance and reports which can be obtained from the team can be found on the [Criminal Intelligence Analyst Team \(link is external\)](#) intranet page.

Operational requests

Guidance in this section should be read in conjunction with [FRAIMS guidance – Criminal Analysis \(link is external\)](#).

Actions by the investigator

When it is identified that there is a need for analytical input, agreement for the commissioning of an Analyst must be obtained from the Team Leader (TL) / Higher Investigation Leader (HIL), the approval process must be completed on FRAIMS.

When the TL / HIL has given their agreement, the investigator must complete the [Analyst Commissioning Document \(link is external\)](#) (ACD) including:

- your name and contact details in the 'Sponsor Details' field
- a brief description of what is required in Part 4.

For more details about the wording to be used when completing Part 4, see '[Example Wording \(link is external\)](#)' on the Criminal Intelligence Analyst Team intranet page.

The process of sending the ACD to the Criminal Intelligence National Analyst Inbox to obtain their decision on whether the analysis work can be supported, and obtain the name of the Analyst who will be working on the case, will be managed by FRAIMS.

When the ACD is completed the sponsor must:

- create an activity on the case to the National Analyst Inbox **[Redacted]** and attach the completed ACD to the activity. Ensure that the National Analyst Inbox is made primary owner of the activity and
- associate the National Analyst Inbox **[Redacted]** to the case.
The National Analyst Inbox must remain associated to the case until all analytical work has been completed.

Action by Criminal Intelligence National Analyst Inbox Manager

The Criminal Intelligence National Analyst Inbox manager may need additional information when they are considering if the application can be supported. Where more information is required, the National Analyst Inbox manager will contact the sponsor directly.

Details of any discussions must be recorded on the FRAIMS activity in the 'Comments' field of the activity.

When the National Analyst Inbox manager has made their decision on the [Analyst Commissioning Document \(link is external\)](#) (ACD), they will note their decision in the 'Comments' field of the activity and relay the decision to the investigator / sponsor by creating a new activity.

If the ACD is accepted, the National Analyst Inbox manager will mark the activity:

- Status field as 'In progress' and
- Resolution field as 'Approved'.

The activity will remain open, leaving the activity visible in the National Analyst Inbox until the case becomes the oldest outstanding at which point it will be taken by the next available Analyst irrespective of location.

It is important that the activity status remains as 'In progress' and the Due Date remains unchanged to allow the activity to maintain its view / position in the National Analyst Inbox.

Any changes to these fields will impact on view / position and would potentially cause delays.

If the ACD is rejected, the National Analyst Inbox manager will complete their reasons in the activity 'Comments' field and will mark the activity status field as 'Done' and the resolution field as 'Not Approved'.

Action by the Analyst

When the Analyst requires a new case for analysis, they will take the oldest outstanding case shown in the Criminal Intelligence National Analyst Inbox. They will:

- mark the activity status field as 'Done', thus removing the case from the view of outstanding cases in the National Analyst Inbox
- associate themselves, and their Higher Intelligence Leader (HIL), to the case.

The Analyst will contact the sponsor of the [Analyst Commissioning Document \(link is external\)](#) (ACD) to discuss and agree:

- what is required from the Criminal Intelligence Analyst Team
- the success criteria for the work to be undertaken
- a date for the first review.

Record details of the discussion to ensure that all information relating to the task and the requirements of the sponsor are recorded by creating an activity and recording details in the 'Comments' field.

Details of all the main actions taken by the Analyst must be recorded by creating an activity on FRAIMS.

When the Analyst recommends that action should be taken by the investigator, they must inform them by creating an activity on FRAIMS.

When the Analyst has completed their actions they will:

- note and close the existing review activity

- complete the report and attach it to a new activity noting that action is now complete, marking the activity status field as 'Done'
- notify the sponsor that all actions are completed by creating a new activity.

When all the analysis work has ceased and the final report received, ensure that the Criminal Intelligence Analyst Manager, the Analyst and National Analyst Inbox have been removed from the case on FRAIMS.

Strategic requests

25. Requests for analytical input for strategic purposes will not be managed using FRAIMS, as they will not relate to individual cases or operations.

Actions by the investigator

26. When it is identified that analytical input for strategic purposes is required, agreement for the commissioning of an i-HUB Analyst must be obtained from their immediate Line Manager and will require the commission to be sponsored by grade not lower than Band E.

27. When agreement has been given, complete the [Strategic Analyst Commissioning Document \(SACD\) \(link is external\)](#) with:

- your name and contact details in the sponsor details fields, and
- a brief description of what is required in Part 1.

28. Send the SACD, by e-mail, to the i-HUB Team Manager as indicated on the form, so that they can decide if the work can be supported.

Action by the Analyst

29. When the request is accepted, the i-HUB Analyst, or i-HUB Manager, will contact the sponsor of the [Strategic Analyst Commissioning Document \(SACD\) \(link is external\)](#) to discuss and agree:

- what is required from the i-HUB Analyst Team
- the success criteria for the work to be undertaken, and
- a date for the first review or a date for the completion of the strategic report.

30. When the Analyst has completed their actions, they will complete a report and forward it to the i-HUB Manager and CCIIS Intelligence SLT.

31. Once the report has been reviewed it will be forwarded to the sponsor within 5 working days from receipt.

06 Data Validation Application

Summary

Her Majesty's Passport Office (HMPO) is the sole issuer of United Kingdom (UK) passports and is responsible for civil registration services through the General Register Office. HMPO is part of the Home Office. As a customer service organisation they issue passports and provide a passport verification service.

The Data Validation Application (DVA) is a database containing the details of all UK passports or passport holder's and passport applications, to which a number of government agencies have access.

A limited number of approved users within the Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence & Investigation Service have full access to the Data Validation Application (DVA) which allows them to view all available UK passport information and also manage the accounts of approved users within their organisation. In addition to Standard Approved Users, each organisation has at least one Authorised System Manager (ASM) who can request Data Validation Application (DVA) accounts to be Enabled or Disabled and at least one Super User who is able to unlock or reset Data Validation Application (DVA)

accounts and run Management Information Reports. See [Data Validation Application Authorised System Manager](#) for each role.

Data Validation Application

[Redacted]

Agreement with Her Majesty's Passport Office (HMPO) authorises direct access to the Data Validation Application for all authorised users.

Reasons for accessing the Data Validation Application

[Redacted]

The data captured for the subject must include the:

- investigating officer's name
- date of access
- name
- date of birth
- passport number
- reason for the query
- result of the query and local reference number

Note: Some UK passports are not accessible through the Data Validation Application, this is due to the age or type of passport or it may have been issued abroad.

Note: All passports are now issued in the UK so should be on the Data Validation Application.

Obtaining Further Information from the Data Validation Application via Her Majesty's Passport Office

[Redacted] You can request the further information provided the information request falls under the following legislation:

- Social Security Administration Act 1992 section 122B
- Data Protection Act 2018 paragraph 2(1) of Schedule 2

You can request the information using the Data Protection Act request (held locally or within the DVA guide issued by Her Majesty's Passport Office. The form must be authorised by a HEO. Once authorised the form should be emailed to: [Redacted]

If an investigating officer requires more information from the DVA the information request must be made on the Fraud Referral and Intervention Management System (FRAIMS) using a Request for Information (RFI). Fully document the information required within the body of the RFI, including the reasons why this information is necessary and proportionate.

Complete and submit the RFI on FRAIMS to the appropriate Intelligence Gathering Officer (IGO).

Do not request information from the DVA by any other means, such as e-mail or telephone.

If during the intelligence gathering process an Abroad Fraud interest is discovered, an IGO can forward a request for information to the Abroad Fraud Team.

The request must be made on the FRAIMs using the International Source Request Form (held locally). Fully document why this information is required and the reasons why it is necessary and proportionate. The IGO must notify the investigator of this request by sending them a FRAIMs activity.

Requests for obtaining images from the Data Validation Application for surveillance

Images must not be routinely requested or provided in response to requests for information. See [requesting passport photos](#) for further information.

Only Surveillance Officers are permitted to request copies of passport photographs. They must also make sure that a **RIP1** authorisation is in place.

The Intelligence Gathering Officer (IGO) must be satisfied that a request for information from the Data Validation Application (DVA) is compliant.

Where the Intelligence Gathering Officer is satisfied that the information request is justified, they will attach the authorised Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence and Investigations DVA authorised user to the appropriate case on Fraud Referral and Intervention System (FRAIMS) and input activity for the approved user.

Once the RIP1 has been authorised, a completed [passport photo application \(link is external\)](#) request form must be emailed to **[Redacted]**
[Redacted]

The Identity Fraud Officer in Glasgow should keep all requests for audit purposes.

Where the investigator requires a photographic image for identification purposes post interview a RIP1 application is not necessary.

[Redacted]. A RIP1 application is not necessary in these circumstances.

Where the investigator has obtained photographic image for the purpose of 'nexus' a RIP1 application is not necessary. The image can be used to show an employer to confirm a claimant's identity.

The approved user must detail the request findings on FRAIMS and provide the Intelligence Gathering Officer with any relevant printed documentation, which will be securely issued to the requesting investigator.

Data Validation Application Authorised System Manager

Authorised System Manager

The role of an Authorised System Manager (ASM) is to locally manage and support their Data Validation Application (DVA) users. The ASM should contact the Her Majesty's Passport Office (HMPO) on the user's behalf to:

- authorise DVA user requests
- raise user or network incidents

Depending upon the issue, an ASM should contact one of two teams within HM Passport Office, the Data Management Team (DMT) or the IT Operations Service Desk (IT Ops).

Data Management Team

DMT support and assist with the management of the DVA service. You can contact the team at **[Redacted]** and depending on the nature of the query the team will endeavour to respond to you as soon as possible, either personally or by asking an expert user within HM Passport Office to contact you directly. Types of enquiry dealt with by DMT include:

- Account information
- General service enquiries
- Billing and invoices
- Complaints
- DVA Super User Password Resets

To grant individuals ASM privileges, an existing ASM or Primary Contact should contact the DMT providing the name and email address (ASMs are not required to have a DVA account).

The DMT support desk is available 09:00 – 17:00 (Monday to Friday) and are contactable on the following numbers:

[Redacted]

IT Operations Service Desk

The ASM should contact the IT Operations service desk to raise any DVA technical or system issues.

The IT Ops Desk is available 07:30 – 22:00 (Monday to Friday) and is contactable on [Redacted] Please ensure you have all relevant information regarding your enquiry. If the query relates to a DVA user you will be required to provide the following information:

[Redacted]

Following your enquiry you will be given a unique reference number, which should be stated where progress calls need to be made.

Super User Role

The Super User role in DVA has two main functions; the first being to unlock and reset the password for any Standard User within their organisation.

The second function will allow a Super User to run various MI reports;

- Account Status Report – this report will show all active/inactive users within the organisation, their last login date and how many days until the account gets automatically Disabled/Deleted
- Transaction Report – This will cover any 31 day period for a maximum of 2 years in the past, showing the total amount of transactions performed
- Charging Model Report – Select a month to view the amount of licences held or checks that have been performed and the cost associated to this

If a Super User locks their DVA account, they will need to contact DMT on [Redacted] DMT will reset the password and advise of the new single use password over the phone.

User Inactivity

Users with 90 days inactivity will be disabled without notification to comply with HM Passport Office security requirements. The MI reports state the Last Login Date for each user, any user without a Last Login Date would suggest the user has never logged into DVA and the 90 day period would start from the date the account was created.

After a further 90 days, the account will be deleted from the system and will no longer be viewable in MI reports run by Super Users.

Submitting Data Validation Application User Requests

Completed forms must be sent to [Redacted] by an ASM, attaching one request per e-mail and including the user's full name and action required in the Subject field (for example: "John Smith – Enable"). Requests received from a non ASM will be rejected.

Completing the Data Validation Application User Management Request Form

Complete the DVA User Management Request form to enable or disable or modify user access to the DVA database. Submitted requests must be completed correctly, as any errors will delay the processing of the request. Use the table below to assist in completing the form correctly.

Organisation	Provided by HM Passport Office and stated on MI reports
Location	Provided by HM Passport Office and stated on MI reports

Forenames	All user forenames
Surname	User's last name
Date of Birth	Enter the user's date of birth in DD/MM/YYYY format
E-mail address	Enter the user's email address in lowercase characters
Action	<p>Enable – Select this option for enabling new users</p> <p>Disable – Select this option to disable a user's access</p> <p>Re-enable – Select this option to reactivate an existing user that has been disabled</p> <p>Update – to amend user personal details and so on</p>
Access Level	Standard User Only, Super User only or both
Security clearance	Specify level of Security Clearance of the user or contact your HR department if unknown – the minimum requirement is CTC
Security clearance expiry date	Specify date of when the user's current Security Clearance will expire, contact your HR department if unknown

Data Validation Application e-Learning

[Redacted]

All users are required to re-take the Assessment every 12 months, failure to do so could result in the user account being disabled.

If a user is experiencing problems with the assessment score updating, they should try a different web browser (Google Chrome, Mozilla Firefox and so on) and if this does not work, contact their IT department.

Withdrawn Requests

New users have a three month deadline to successfully complete and pass the DVA e-Learning Course from the date of receiving their Welcome Email, failure to do so will result in the user's e-Learning account being disabled and request withdrawn.

User Requests – Service Level Agreements

New User	Five working days from the date the user successfully completes the DVA e-Learning
----------	--

Requests	Course and Assessment
Re-enable Requests	Five working days from the date the user successfully completes the DVA e-Learning Course and Assessment or if the user has completed the DVA e-Learning Course within the last 12 months the Service Level Agreement (SLA) starts from the day the request is received
Disable Requests	Five working days from the date the day the request is received

Requesting passport photos

All Requests for Information will now be managed from a single National Inbox. An Operational Intelligence Unit (OIU) National Gatekeeper is in place to allocate Request for Information's (RFI's) to each OIU. On allocation, the Gatekeeper will insert the date the RFI is allocated to the OIU in the comments box of the activity to enable Investigators to track the date the RFI was submitted, allocated and actioned. The name of the OIU that the RFI is allocated to will also be included in the Comments box, allowing the Investigator to see which OIU is dealing with their request. Once the RFI is selected by the IGO they will add the OIU Manager to the Case Team Box.

All requests for passport photographs for surveillance purposes only will no longer be submitted on RFIs. These requests will be submitted directly to **[Redacted]** using the [Passport Photo application \(link is external\)](#).

Email the application to **[Redacted]**

If during the intelligence gathering process other passport information is required an RFI should be completed as normal and forwarded to the National Inbox.

Details of all passports issued to individuals include the following information:

- **[Redacted]**
Requests relating to the Internet should continue to be submitted directly to **[Redacted]** Further guidance can be found in the [Internet Desk](#) section of the Fraud Guide. If the Request for Information is urgent, the Investigator should contact the National Gatekeeper. Requests will be considered urgent if a court date has been set or an arrest of a suspect is being considered.

07 Intelligence evaluation scoring

Intelligence evaluation scoring

1. Intelligence evaluation scoring ([Intelligence Report \(link is external\)](#)), previously known as 5x5x5, is a system for evaluating and rating the reliability of information.

2. Widely recognised by United Kingdom (UK) and worldwide law enforcement agencies, it provides a format that facilitates the evaluation of both the source and the information, and creates a handling code for the dissemination of material to be considered.

3. There are 3 assessments to be conducted, these are:

Source evaluation

4. How reliable is the person or department who has given this information to you?

5. Determining factors will be the credibility of the source providing the information or intelligence:

- Reliable - This grading is used when the source is believed to be competent and information received is generally reliable. This may include information from:
 - human intelligence
 - Technical
 - Scientific
 - forensic sources
- Untested - This relates to a source that has not previously provided information to the person receiving it or has provided information that has not been substantiated. The source may not necessarily be unreliable, but the information provided should be treated with caution. Before acting on this information, corroboration should be considered. This would apply to information when the source cannot be determined, for example, Crimestoppers
- Not reliable - This should be used where there are reasonable grounds to doubt the reliability of the source. These should be specified ([IR risk assessment \(link is external\)](#)) and may include concerns regarding the authenticity, trustworthiness, competence or motive of the source or confidence in the technical equipment. Corroboration should be sought before acting on this information.

Information or Intelligence assessment

6. How far does the source know this to be true?

7. This assesses the accuracy or truth of the information or intelligence received, no matter who the provider is:

- Known directly to the source - Refers to information obtained first-hand, for example, through witnessing it. Care must be taken to differentiate between what a source witnessed themselves and what a source has been told or heard from a third party
- Known indirectly to the source but corroborated - Refers to information that the source has not witnessed themselves, but the reliability of the information can be corroborated by other information. This corroboration could come from technical sources, other intelligence, investigations or enquiries
- Known indirectly to the source - Applies to information that the source has been told by someone else. The source does not have first-hand knowledge of the information as they did not witness it themselves
- Not known - Applies where there is no means of assessing the information. This may include information from an anonymous source, or partners such as Crimestoppers
- Suspected to be false - Regardless of how the source came upon this information, there is a reason to believe the information provided is false. If this is the case, the rationale for why it is believed to be false should be documented in the [Intelligence Report Risk Assessment \(link is external\)](#)

Information content

8. The information content should comply with the basic principles of [5WH \(link is external\)](#) (what, when, where, why, who and how).

9. Information should be clear, concise and without abbreviations. The information must be of value and understood without the need to refer to other information sources.

10. The body of the report should give no indication of the nature of the source, whether human or technical, or the proximity of the source to the information.

11. Where possible, the information must be corroborated and its provenance established. This is done through interrogation of information already held in other business areas. Where that research has been done this should be recorded and contained within the initial Intelligence Record and clearly labeled. Handling codes and conditions.

12. Who can you pass this information to? Handling codes are a control mechanism for intelligence sharing. The risks associated with sharing intelligence must always be weighed against the potentially greater risk of not sharing.

13. Before disseminating intelligence, the person disseminating should ensure they are familiar with the appropriate [legislation](#), [departmental policy](#) and compliance with [Acceptable Use Policy](#).

[Redacted]

Intelligence Report Risk Assessment

30. This form records the risks associated with the dissemination of intelligence held within the report. It should:

- consider ethical, personal and operational risks in respect of the source, the intelligence content, its use and dissemination
- consider compliance with a legislative requirement or policing purpose
- record the justification for decisions made
- record the authority of the person making decisions
- consider the proportionality, accountability and necessity for disseminating the intelligence

31. Considerations:

- The Intelligence Report Risk Assessment must not be disseminated outside the intelligence or confidential unit environment. Handling conditions must be recorded in the Intelligence Report.
- A review of any Intelligence Report Risk Assessment should take place when the report is evaluated for dissemination

Intelligence confidence matrix

32. The following matrix provides an indication of the level of confidence that can be taken in the intelligence dissemination. This informs decision making and supports interoperability between agencies or organisations.

Intelligence assessment

[Redacted]

Utilising Intelligence Reporting

[Redacted]

External disclosure

37. [Redacted]

Contact list

38. [Redacted]

08 Witness Statements

Obtaining witness statements from Information Providers

1. It is the responsibility of investigator to obtain a witness statement to support each item of evidence when the decision is made to prosecute. Once it is established that a prosecution is appropriate, witness statements must be taken at the earliest opportunity and appropriate BFs set to avoid unnecessary delays.

2. In prosecution cases involving some financial institutions, the information provider may require copies of any documents / information they originally provided to enable them to generate a witness statement.

3. Investigators do not exhibit documents in court in Scotland. Documents may be admissible in evidence if they are appropriately docketed in terms of section 279A or schedule 8 of the Criminal Procedure (Scotland) Act 1995. If docketed documents are not sufficient then it is necessary for the witness to attend in person to speak about the documents obtained.
4. It is not Departmental policy to pay for witness statements. The purpose of a Section 9 Witness Statement (PF11) is to allow evidence to be presented before the Court and to allow the prosecution and defence to agree the evidence without the witness having to attend Court and present evidence orally.
5. Investigators must always request the witness statement even if it is known the company may refuse to supply one due to non payment.
6. Where a witness refuses to provide a witness statement, the fact should be noted on the prosecution file, attached to the evidence to which the statement would refer, and brought to the attention of the prosecutor. The facts should include the reason why the witness is refusing to supply a statement.
7. In the event of a case going to trial where a witness has refused to supply a witness statement or attend court, the Crown Prosecution Service will apply for a witness summons under Part 8 of the Criminal Procedure Rules.
8. It may be appropriate to make payment to certain organisations for searching its records in order to provide the information requested as allowed in Part 4 of the Social Security Fraud Act 2001 (s.3(1)) but this should not be confused with making payment for witness statements in relation to that information and relates only to the original information search and its disclosure.
9. In line with Departmental billing arrangements, payment of search and disclosure nominal fees will be the responsibility of the requesting fraud team.

09 Obtaining Information using SSFA powers

Social Security Fraud Act 2001 Powers

1. The organisations that can be required to provide information to an Authorised Officer under the powers in the Social Security Administration Act 1992, as amended by the Social Security Fraud Act 2001 and the Social Security Administration Act 1992 (Amendment) Order 2002 are listed in the Statutory Code of Practice, paragraph 2.1:

“2.1 The Administration Act lists the organisations from which information may be required at Section 109B(2A). These are:

 - (a) any bank [2](#), [4](#)
This includes: banks, credit unions, friendly societies, industrial and provident societies
 (aa) the Director of National Savings
 - (b) any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public
For example, credit card companies and building societies
 - (c) any insurer [3](#), [4](#)
 - (d) any credit reference agency (within the meaning given by Section 145(8) of the Consumer Credit Act 1974(c.39))
 - (e) any body the principal activity of which is to facilitate the exchange of information for the purpose of preventing or detecting fraud
For example, CIFAS the UK fraud avoidance system
 - (f) any person carrying on a business the whole or a significant part of which consists in the provision to members of the public of a service for transferring money from place to place

For example, money transmission companies

(g) any water undertaker or sewerage undertaker, any water and sewerage authority constituted under Section 62 of the Local Government etc. (Scotland) Act 1994(c.39) or any authority which is a collecting authority for the purposes of Section 79 of that Act

(h) any person who -

(i) is the holder of a licence under Section 7 of the Gas Act 1986 (c.44) to convey gas through pipes, or

(ii) is the holder of a licence under Section 7A(1) of that Act to supply gas through pipes

(i) any person who (within the meaning of the Electricity Act 1989(c.29)) distributes or supplies electricity

(j) any person who provides a telecommunications service

(k) any person conducting any educational establishment or institution

(l) any body the principal activity of which is to provide services in connection with admissions to educational establishments or institutions

(m) the Student Loans Company

(n) any servant or agent of any person mentioned in any of the preceding paragraphs.”

2. The following fact sheets provide advice on obtaining information from each of the above

² "bank" means - (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 (c.8) to accept deposits; (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or other repayable funds from the public; or (c) a person who does not require permission under that Act to accept deposits, in the course of his business in the United Kingdom.

³ "insurer" means - (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 (c.8) to effect or carry out contracts of insurance; or (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.

4 The definitions of “bank” and “insurer” must be read with (a) Section 22 of the Financial Services and Markets Act 2000; (b) any relevant order under that Section; and (c) Schedule 2 to that Act

Factsheet 1 - Section 109B(2A)(a) and (aa)

Banks

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

(aa) the Director of National Savings”

- “(a) any bank

2. Section 109B(7) of the Administration Act states that:

- ‘bank’ means –

(a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 (c.8) to accept deposits; (b) an European Economic Area (EEA)* firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or other repayable funds from the public; or (c) a person who does not require permission under that Act to accept deposits, in the course of his business in the United Kingdom.”

3. This definition of ‘any bank’ therefore includes:

- banks; including banks established in other EEA member states which have a branch or provide services in the UK, the Bank of England and central banks of other European Union (EU) member states, and supranational institutions such as the European Investment Bank, the International Bank for reconstruction and Development and the International Monetary Fund
- municipal banks; banks which are owned by and their deposits guaranteed by a local authority. This is a closed category since no new municipal banks can be established
- the National Savings Bank
- building societies
- credit unions
- friendly societies
- industrial and provident societies
- certified school banks.

4. There are, in addition, a number of bodies that will be caught by the definition of bank, although they do not carry on conventional retail banking business, because they are exempt in respect of accepting deposits under the Financial Services and Markets Act (FSMA) 2000 regime. These include:

- Charities, in so far as they accept deposits from other charities
- the National Children’s Charities Fund
- the Keesler Federal Credit Union; an organisation which accepts deposits from members of the US armed forces and their families
- the National Debt Commissioners; the Treasury Taskforce; the International Development Association
- the English, Welsh, Scottish and Northern Ireland Tourist Boards
- Scottish Enterprise
- the Multilateral Investment Guarantee Agency
- persons acting as an official receiver under insolvency legislation
- and a person who provides trading facilities which constitute a regulated market for stocks and shares etcetera.

5. Clearly, there are likely to be very few instances where organisations in this second list would be required to provide information.

Exercising of the powers

6. Section 109B(2B) of the Administration Act specifies that the powers to require information shall be exercisable for the purpose only of obtaining information relating to a particular person identified (by name or description) by the officer.

7. Section 109B(2C) specifies that the powers to require information shall only be used where it appears to the officer that there are reasonable grounds for believing that the identified person to whom it relates is:

Note: that this does not specify that the person must be a benefit claimant. Only that there are reasonable grounds to suspect the person has, is or intends to commit a benefit offence.

- “(a) person who has committed, is committing or intends to commit a benefit offence; or
(b) a person who (within the meaning of Part 7 of the Contributions and Benefits Act) is a member of the family of a person falling within paragraph (a) above.” See Chapter 2 of the Code of Practice.

8. In practice with banks and similar organisations, provide the name of the person enquired about, with as much supporting detail as is available. If known, provide the account number and sort code.

9. There are certain other circumstances when information can be obtained and these are detailed in the following paragraphs.

Period of request

10. Initial requests to banks and building societies might be made to resolve questions of:

- **[Redacted]**

11. **[Redacted]** This is for two reasons:

- to comply with the Data Protection Act 2018, and
- to minimise the burden on the information provider.

13. If statements are necessary going back many months or even years, a full explanation as to why in writing is required

Company accounts

14. A company is a legal person, so enquiries can be made about company bank accounts, whether or not in the name of the owner of the company or of the company itself. For example, a sole trader may have an account in their name; 'John Doe', 'John Doe No 2 account', or in a trading name; 'John Doe t/a Doe Cleaning Services', 'Doe Cleaning Services'.

15. A limited liability company account is in the name of the company; 'Doe Cleaning Services Limited', 'Doe Cleaning Services PLC'. There is also a new category of Limited Liability Partnership; 'Doe Cleaning Services LLP'.

16. An enquiry about a company account can only be made if there are reasonable grounds, fully documented, to believe that the company is committing an offence. If the suspicion is against the employee, but there are no grounds to suspect the company, no attempt must be made to obtain details from the company account.

Obtaining information on the basis of an account number

17. In connection with the fraudulent encashment of instruments of payment / cheques, financial institutions can provide information on the basis of an account number, rather than a name.

18. The legislation provides that information can be obtained about an individual identified by name or description. Legally it has been confirmed that a phrase such as "the holder of account number xxxxx" provides a description of an individual.

19. Such a phrase clearly identifies the individual holding that account, whether singularly or jointly. Where an account number is known on an individual, information about the holder and about the account can be sought.

The Director of National Savings

20. Explicit mention is made of the Director of National Savings at Section 2A(aa). This is because, although some National Savings products are caught by the definition of a bank, for example, the National Savings Bank, there are others that are not, such as Premium Bonds.

21. To ensure that Authorised Officers have access to information about all National Savings products, now known as National Savings & Investments, relevant to benefit offence enquiries, the Social Security Administration Act 1992 (Amendment) Order 2002 added new Section 2A(aa).

* The European Economic Area (EEA) comprises the European Member States (Austria, Belgium,

Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom) together with Iceland, Liechtenstein and Norway.

Factsheet 2 - Section 109B(2A)(b)

Provision of credit

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

- “(b) any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public”.

2. Credit is further defined in Section 109B(7) of the Administration Act to include ‘a cash loan or any form of financial accommodation including the cashing of a cheque’. This definition is quite broad. It includes any organisation that provides credit through one or more credit transactions, such as hire purchase, cash loans, cashing of cheques, credit cards or overdrafts etcetera, as the whole or a significant part of its business. It would include:

- money lenders
- credit card companies
- cheque shops
- pawnbrokers
- mail order firms and
- retailers or trade suppliers offering credit using their own funds.

3. It would not include:

- organisations that provide loyalty bonus cards, where points are accumulated that help to purchase an item
- companies that provide season travel ticket loans to their staff, unless that was significant part of their business or
- a business that leases, hires out or rents goods; other than through a hire purchase agreement.

Factsheet 3 - Section 109B(2A)(c)

Insurer

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

“(c) any insurer”

2. Section 109B(7) of the Administration Act states that:

“Insurer” means: (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 (c.8) to effect or carry out contracts of insurance; or (b) an EEA* firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.”

3. This is a wide category that includes all types of insurance, such as, motor, household, payment protection, income replacement, personal accident and injury, etcetera and assurance, for example, life, pensions, and annuities.

4. Information about income from insurance policies or lump sum payments can be obtained.

5. Under no circumstances should medical details be requested in cases involving insurance payments for accidents, injuries or sickness. This is privileged information that can only be disclosed to the Department's medical officers or contractors.

Pensions

6. Information about income from a pension is obtainable under Section 109B(2)(h) as well as under the Social Security Fraud Act (SSFA) powers Section 109B(2A)(c).

7. When enquiring about a possible income from a pension, it is first necessary to find out whether the pension is an occupational pension, paid as a result of employment by the insurance company, or a private pension purchased from the insurance company. In other words, is the claimant an ex-employee of the insurance company or a customer? Clearly there will be many more of the latter than the former.

8. Although the information about either type is legally obtainable using either powers, insurance companies would prefer the SSFA powers to be used where the information required is about a claimant rather than an ex-employee.

9. As a matter of policy information about occupational pensions paid to ex-employees should be made using Section 109B(2)(h) and information about private pensions paid to a claimant should be made using Section 109B(2A)(c).

Factsheet 4 - Section 109B(2A)(d)

Credit Reference Agencies

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

- “(d) any credit reference agency (within the meaning given by Section 145(8) of the Consumer Credit Act 1974(c.39)”

Note: This fact sheet contains information that has been provided as ‘Commercial - In confidence’ by Credit Reference Agencies (CRAs). This information is not to be disclosed to unauthorised personnel.

Credit Reference Agencies

2. Credit Reference Agencies (CRA) are a useful initial point of enquiry as information about a person's financial arrangements could lead to an undisclosed bank account or other investment.

3. There are two main Credit Reference Agencies in the UK, Equifax and Experian. Their role is to provide a service to enable their customers to make responsible lending decisions.

4. Authorised Officers must appreciate that much of this information will relate to debt, and information that will allow decisions on lending and debt to be made, whereas the information that the Department for Work and Pensions (DWP) need will essentially relate to assets.

5. The information available could also show

- **[Redacted]**

6. CRAs hold information about individuals placed by their customers, the lenders. The lenders use this information and other information such as what the applicant tells them on the application form, to make a judgement about the risk involved in advancing credit or providing financial services to their prospective customer. This results in a credit rating. Each lender forms their own judgement and different lenders may give different ratings to the same person.

7. The agencies are not credit rating agencies and do not allocate credit scores to private individuals. It is for the individual lenders to do this.

Information held by a Credit Reference Agency that might be of use in a fraud investigation

8. CRAs hold the following types of information:

- **[Redacted]**

Storage of information

9. The information held by CRAs is stored with reference to the name and address, CIFAS is the only file where the address only is the primary key. Information can only be required using SSFA powers about an individual identified by name or description. This has an impact on the way that information is obtained. A search can only be carried out on the subject and only information that relates to that subject will be returned.

10. Paragraph 2.5 of the Statutory Code of Practice states that Authorised Officers may need to seek to identify a suspect using their description, for example; male, aged mid-thirties, and checking this against the address used.

Accessing information.

11. DWP Authorised Officers will, in the main, access CRA information electronically via Departmental Office Infrastructure (DOI). Both Experian and Equifax provide this information by means of a secure website.

12. For information based on a description, Experian and Equifax provide a fax service - this information will not be available electronically. Information relating to an individual will be faxed back if the CRA can identify the subject from the description given. If there is any doubt no data will be supplied. If the identity cannot be confirmed a reply will be sent with an explanation, for example, more than one subject matching the description.

Footprints

13. **[Redacted]**

14. **[Redacted]**

Data fields stored on the search database

Equifax

15. The Equifax Searches database includes the following fields:

- name
- date of birth
- search date
- search type
- company type
- company name.

16. **[Redacted]**

17. The search system includes:

- a subject search screen
- an interactive address matching screen which enables searches on house number or name and postcode or part of an address if the postcode is unknown;
- an interactive address confirmation screen to prevent inaccurate searches being carried out;
- on-line help pages;
- on-line comprehensive description of each data item that can be viewed and its uses.

18. Further information held by Equifax.

Insight closed user group

[Redacted]

ID Plus

[Redacted]

Experian

24. Experian provide a specific gateway to their data for SSFA purposes, called 'SSFAView'.

25. Experian provides training to Authorised Officers who will access SSFAView.

26. The Experian database includes:

- a person search screen
- a client relationships screen providing amalgamated details of known accounts, footprints etcetera
- client products providing further details from the client relationships screen
- client financial summary
- client details.

Use of the search database

27. The company name, where known, will be included in on-line searches by Authorised Officers:

- [Redacted]
CIFAS - UK Fraud Avoidance System
28. [Redacted]
- [Redacted]
Council of Mortgage Lenders closed user group
31. [Redacted]

LOCATE

The LOCATE database holds forwarding and previous address information, including:

[Redacted]

Gone Away Information Network closed user group

34. [Redacted]

[Redacted]

FraudScan checks

37. FraudScan automates the checking of key data elements. This is a separate search to the main subject search.

[Redacted]

Notice Of Correction

39. Notice Of Correction (NOC) is a method under Section 159 of the Consumer Credit Act 1974 whereby a consumer can distance themselves from information held on the file or substantiate an entry recorded against them. The CRA cannot delete or vary this information.

40. The NOC database includes the following fields:

- name
- date loaded
- text.

Factsheet 5 - Section 109B(2A)(e)

Exchange of information to prevent or detect fraud

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

“(e) any body the principle activity of which is to facilitate the exchange of information for the purpose of preventing or detecting fraud”.

2. The intention of this category in the Act is to provide a legal gateway to enable Authorised Officer (AOs) to acquire CIFAS information, as explained in Credit Reference Agencies.

3. CIFAS do not maintain their own database and there should be no reason for an Authorised Officer to contact CIFAS directly. All relevant CIFAS data is held on the CRA databases.

Factsheet 6 - Section 109B(2A)(f)

Money transfer

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A);

- “(f) any person carrying on a business the whole or a significant part of which consists in the provision to members of the public of a service for transferring money from place to place”.
2. This category includes companies such as Western Union. It also includes banks and building societies but as they are included in their own right, this category is provided to cover money transmission companies that do not fall within any of the previous categories.
3. It will mainly be of value in obtaining information about money transferred abroad.
4. It must be borne in mind that the Social Security Fraud Act (SSFA) powers cannot be exercised overseas; overseas companies who trade in the United Kingdom (UK) can be required to provide information by directing requests to their UK address, but, for example, an Irish bank trading only in Ireland cannot be required to provide information as they are not subject to UK law.
5. Overseas requests to European Union (EU) member states¹ should be made under the exemptions contained in the European Data Protection Directive² that allows privacy to be breached for the prevention and detection of crime.
6. Outside the EU, a simple request for information must be made stating that the information is required in connection with a criminal investigation. In both cases, compliance is voluntary.

Internet payment companies

7. Internet payment companies such as Paypal and Nochex are regulated by the Financial Services Authority as electronic money issuers.
8. Legal advice is being sought as to whether they fall within the SSFA powers.
9. However, Paypal, a subsidiary of EBay, are willing to provide information in response to a standard DPA letter. Their records are held in the United States, so the Data Protection Act 2018 has no legal standing, but the standard DPA letter contains a suitable form of words to provide them with assurance that the information is required for law enforcement purposes.
10. The procedure is as follows:
prepare a standard DPA letter using FRAIMS, addressed to **[Redacted]**
fax this to **[Redacted]**
PayPal will send a **[Redacted]**
11. At present, there is no charge for this service.

EU Member States are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

In addition Iceland, Liechtenstein and Norway are members of the EEA. The Channel Islands, the Isle of Man and Gibraltar are not part of the EEA. In 1973 Gibraltar entered the European Economic Community, as a dependent territory in Europe, under Article 277(4) of the Treaty of Rome but was excluded, at the request of the Government of Gibraltar, from the common external tariff, the common agricultural policy and value added tax.

² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data Official Journal L 281 , 23/11/1995 P. 0031 - 0050: “Member States may adopt legislative measures to restrict the scope of the obligations and rights provided for in Articles 6 (1), 10, 11 (1), 12 and 21 when such a restriction constitutes a necessary measures to safeguard: (a) national security; (b) defence; (c) public security; d) the prevention, investigation, detection and prosecution of criminal offences, or of breaches of ethics for regulated professions; (e) an important economic or financial interest of a Member State or of the European Union, including monetary, budgetary and taxation matters; (f) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (c), (d) and (e); (g) the protection of the data subject or of the rights and freedoms of others.

Factsheet 7- Section 109B(2A)(g)

Water and sewerage companies

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A):

“(g) any water undertaker or sewerage undertaker, any water and sewerage authority constituted under Section 62 of the Local Government etc. (Scotland) Act 1994(c.39) or any authority which is a collecting authority for the purpose of Section 79 of that Act”.

2. For legal reasons, this is a complex definition, but in practice it means private sector water companies in England and Wales and public and private sector water suppliers in Scotland.

3. The information that a water company may be able to provide is limited in comparison to electricity and gas suppliers. Water companies are able to provide details of who pays the water bill and, if it is paid in instalments by direct debit, they will have their customer’s bank details. However, unless the supply is metered they will not have details of consumption.

Factsheet 8 - Section 109B(2A)(h)

Convey or supply of gas

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A):

- “(h) any person who –
 - (i) is the holder of a licence under Section 7 of the Gas Act 1986(c.44) to convey gas through pipes, or
 - (ii) is the holder of a licence under Section 7A(1) of that Act to supply gas through pipes”.
- 2. Privatisation and deregulation mean that getting information from energy companies is no longer simply a matter of contacting the local electricity or gas board.
- 3. In particular, the Utilities Act 2000 creates a clear demarcation between distributors and suppliers. No one company can carry out both functions, although a group of companies can contain both.
 - a distributor is the company that carries the gas via pipes to a property
 - a supplier is the company that actually bills the householder for the gas.
- 4. **[Redacted]**

5. Note that this category of information provider specifies the supply of gas through pipes. It does not apply to suppliers of bottled gas such as Calor Gas.

Enquiries about individuals

6. Authorised Officers must note that powers contained in the Fraud Act 2001 allows them to obtain information that relates to individuals only. Section 109B(2B) states that the powers may be used only for obtaining information “relating to a particular person identified (by name or description) by the officer”.

7. There is no power to obtain individual information about addresses. Therefore, care must be taken when asking for information that may be misconstrued as relating to an address. The standard letters for utility companies have been drafted to ensure that enquiries clearly relate to an identified individual.

8. Authorised Officers must note the following:

- enquiries to distribution companies must clearly state the individual who is the subject of that particular enquiry, that is, the commercial customer. In most cases, this will be the benefit claimant although there will be occasions where enquiries will be made relating to third parties. Authorised Officers must note that this information must be provided in all cases even though distribution companies do not record the names of customers in their records. This is to ensure that our enquiries are legal; that is ‘relate to an individual identified (by name or description)’
- enquiries to supply companies must also state the commercial customer who is the subject of the enquiry. Supply companies have advised that information cannot be provided where the named subject of the enquiry does not match the name on customer records. For example, an Authorised Officer requesting information from a supply company about Jane Smith at 1 The High Street. If Jane Smith is not the customer at that address, the enquiry will be rejected. The supply company cannot provide us with the name of the customer
- if a request is rejected in this way, the Authorised Officer must decide whether there is sufficient justification to make a further enquiry. For example, if it is suspected that Ms Smith is living together with Mr Jones it may be that the Authorised Officer decides to make a further enquiry, this time naming Mr Jones as the subject of the enquiry. Alternatively, the Authorised Officer may consider alternative means of obtaining the required information
- enquiries to British Gas must state all possible permutations/combinations of the name, for example, Jane Smith, J Smith, Mrs Jane Smith, Mrs J Smith, Ms J Smith, Ms Jane Smith, Miss Jane Smith, Miss J Smith so that the chances of a positive match are increased.

Factsheet 9 - Section 109B(2A)(i)

Distribution and supply of electricity

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

- “(i) any person who (within the meaning of the Electricity Act 1989(c.29)) distributes or supplies electricity”.

2. As with gas companies, privatisation and deregulation mean that getting information from electricity companies is no longer simply a matter of contacting the local electricity board.

3. The Utilities Act 2000 creates a clear demarcation between electricity distributors and electricity suppliers. No one company can carry out both functions, although a group of companies can contain both.

- a distributor is the company that carries the electricity from the National Grid to a property
- a supplier is the company that actually bills the householder for the electricity.

4. Distributors supply geographical areas that are still largely based on the old electricity board areas. The supplier can be any company licensed to supply electricity. Many companies are now multi-utility and supply both electricity and gas as a package deal. A householder can choose to obtain supply from whichever supplier offers the best price.

5. So, for example in the case of a property in Southeast England, the electricity distributor could be Seeboard, but the supplier could be British Gas.

6. This means that to get information from the electricity industry about customer accounts a two-stage process is necessary.

7. This is because the company who has the information needed, such as;

[Redacted]

8. To find out who the supplier is at that address we need to contact the distributor.

9. The process is as follows:

Stage one

[Redacted]

Stage two

- contact the supplier with your enquiry about the claimant
- the same factors mentioned under gas apply; information can only be sought about individuals. Electricity companies cannot be required to name their customer at a particular address.

10. The following table lists all electricity distribution companies by postcode:

Postcode	Distributor
AB	Scottish Hydro-electric Power
AL	Eastern Power Network
B1 – B70	Aquila (formerly Midlands Electric)
B71 – B98	East Midlands Electricity or Aquila
BA	Southern Electric or Western Power Distribution
BB	United Utilities or Yorkshire Electricity
BD	United Utilities or Yorkshire Electricity
BH	Southern Electric Power Distribution Ltd

BL	United Utilities (formerly NORWEB)
BN	Seeboard Power Network or Southern Electric
BR	London Power Network or Seeboard Power Network
BS	Aquilla or Western Power Distribution (formerly SWEB)
CA	Northern Electric Distribution Ltd or United Utilities
CB	Eastern Power Network
CF	Western Power Distribution (formerly SWAE)
CH	Manweb (SP Manweb plc)
CM	Eastern Power Network
CO	Eastern Power Network
CR	London Power Network or Seeboard Power Network
CT	Seeboard Power Network
CV	East Midlands Electricity or Aquilla
CW	Manweb or United Utilities or Aquilla
DA	London Power Network or Seeboard Power Network
DD	Scottish Hydro-electric Power or Scottish Power

DE	East Midlands Electricity or Aquilla
DG	United Utilities or Scottish Power
DH	Northern Electric Distribution Ltd
DL	Northern Electric Distribution Ltd
DN	East Midlands Electricity or Yorkshire Electricity
DT	Southern Electric or Western Power Distribution (SWEB)
DY	Aquilla (Midlands Electric)
E	Eastern Power Network
E1 – E18	London Power Network
E1W	London Power Network
EC	London Power Network
EH	Scottish Power
EN	Eastern Power Network
EX	Western Power Distribution (SWEB)
FK	Scottish Hydro-electric Power or Scottish Power
FY	United Utilities (NORWEB)

G	Scottish Hydro-electric Power or Scottish Power
GL	Aquila or Southern Electric or Western Power Distribution (SWAE)
GU	Seaboard Power Network or Southern Electric
HA	Eastern Power Network or Southern Electric
HD	Yorkshire Electricity
HG	Northern Electric Distribution Ltd or Yorkshire Electricity
HP	Eastern Power Network or Southern Electric or East Midlands Electricity
HR	Aquila or Western Power Distribution (SWAE)
HS	Scottish Hydro-electric Power
HU	Yorkshire Electricity
HX	Yorkshire Electricity
IG	Eastern Power Network or London Power Network
IP	Eastern Power Network
IV	Scottish Hydro-electric Power
KA	Scottish Hydro-electric Power or Scottish Power
KT	London Power Network or Seaboard Power Network

KW	Scottish Hydro-electric Power
KY	Scottish Hydro-electric Power or Scottish Power
L1 – L30	Manweb
L31 – L74	Manweb or United Utilities (Norweb)
LA	United Utilities (Norweb)
LD	Aquilla or Western Power Distribution (SWAE)
LE	East Midlands Electricity
LL	Manweb
LN	East Midlands Electricity or Yorkshire Electricity
LS	Northern Electric or Yorkshire Electricity
LU	Eastern Power Network
M	United Utilities (Norweb)
ME	Seaboard Power Network
MK	East Midlands Electricity or Southern Electric or Eastern Power Network
ML	Scottish Power
N	Eastern Power Network or London Power Network

NE	Northern Electric Distribution Ltd
NG1 – NG10	East Midlands Electricity
NG11 – NG34	East Midlands Electricity
NN	East Midlands Electricity or Southern Electric
NP	Aquila or Western Power Distribution (SWAE)
NR	Eastern Power Network
NW	Eastern Power Network or London Power Network or Southern Electric
OL	United Utilities or Yorkshire Electricity
OX	East Midlands Electricity or Southern Electric or Eastern Power Network or Aquilla
PA	Scottish Hydro-electric Power
PE	East Midlands Electricity or Eastern Power Network
PH	Scottish Hydro-electric Power
PL	Western Power Distribution (SWEB)
PO	Southern Electric
PR	Manweb or United Utilities (Norweb)

RG	Southern Electric
RH	Seaboard Power Network or Southern Electric
RM	Eastern Power Network or London Power Network
S	East Midlands Electricity or Yorkshire Electricity
SA1 – SA7	Western Power Distribution (SWAE)
SA8 – SA73	Western Power Distribution (SWEB)
SE1 – SE28	London Power Network
SG	East Midlands Electricity
SK	East Midlands Electricity or United Utilities or Aquilla
SL	Southern Electric
SM	Seaboard Power Network or London Power Network
SN	Southern Electric or Aquilla
SO	Southern Electric
SP	Southern Electric
SR	Northern Electric
SS	Eastern Power Network

ST	East Midlands Electricity or Manweb or Aquilla
SW1 – SW20	London Power Network
SW14 – SW16	Seaboard Power Network or London Power Network
SY	Manweb or Aquilla or Western Power Distribution (SWAE)
TA	Western Power Distribution (SWEB)
TD	Scottish Power or United Utilities or Northern Electric
TF	Manweb or Aquilla
TN	Seaboard Power Network
TQ	Western Power Distribution (SWEB)
TR	Western Power Distribution (SWEB)
TS	Northern Electric
TW	London Power Network or Seaboard Power Network or Southern Electric
UB	Eastern Power Network or Southern Electric
W	London Power Network or Southern Electric
WA	Manweb or United Utilities (Norweb)

WC	London Power Network
WD	Eastern Power Network or Southern Electric
WF	Yorkshire Electricity
WN	United Utilities (Norweb)
WR	Aquilla (formerly Midlands Electric)
WS	Aquilla (formerly Midlands Electric)
WV	Aquilla (formerly Midlands Electric)
YO	Northern Electric or Yorkshire Electricity
ZE	Scottish Hydro-electric Power

Factsheet 10 - Section 109B(2A)(j)

Telecommunications services

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

- “(j) any person who provides a telecommunications service”.

Definition of a telecommunications company

2. Section 109B(7) of the Administration Act states that “telecommunications service” has the same meaning as in the Regulation of Investigatory Powers Act (RIPA) 2000(c.23).

3. RIPA 2000 Section 2(1) states:

- “‘telecommunications service’ means any service that consists in the provision of access to, and of facilities for making use of, any telecommunication system (whether or not one provided by the person providing the service); and

‘telecommunication system’ means any system (including the apparatus comprised in it) which exists (whether wholly or partly in the United Kingdom or elsewhere) for the purpose of facilitating the transmission of communications by any means involving the use of electrical or electro-magnetic energy.”

4. This definition of telecommunications services is quite broad and applies to telephone companies but could equally apply to internet services providers and satellite, terrestrial or cable television companies. In general, three main types of business fall within this definition.

Public Telecommunications Operators

5. Public Telecommunications Operators (PTOs) are licensed under Sections 7 and 8 of the Telecommunications Act 1984 and their systems designated as public telecommunication systems under Section 9. They include some cable companies and mobile operators. In total they number around 280, although less than a dozen operators hold most of the market share.

International Simple Voice Resale Providers

6. International Simple Voice Resale Providers (ISVRPs) are licensed under Section 7 of the Telecommunications Act, and buy bulk international line space from PTOs to resell the calls. The Department of Trade and Industry licensed 570 as of November 2001, of which around 60% are currently active in the market.

Internet Service Providers

7. Internet Service Providers (ISPs) are also licensed under Section 7 of the Telecommunications Act. The Internet Service Providers Association lists around 100 members, although not all of these are ISPs; and the London Internet Exchange lists over 80. In total there are now over 300 operating in the UK.

Information that can be requested

8. Communications data is defined in RIPA s.21 (4) as:

- “(a) any traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any postal service or telecommunication system by means of which it is being or may be transmitted;

(b) any information, which includes none of the contents of a communication (apart from any information falling within paragraph (a)) and is about the use made by any person-

(c) any information not falling within paragraph (a) or (b) that is held or obtained, in relation to persons to whom he provides the service, by a person providing a postal service or telecommunications service.”

○

- (i) of any postal service or telecommunications service; or

(ii) in connection with the provision to or use by any person of any telecommunications service, of any part of a telecommunication system;

9. Authorised Officers can acquire any communications data under parts (b) and (c) above but not traffic data as described in part (a).

10. Traffic data is any data that would identify an individual communication. For example, an itemised bill which lists calls made is traffic data because it identifies individual communications.

11. Details of a claimant's account, and the method by which they pay their bill, is not traffic data because it does not identify individual communications.

12. Personal Unblocking Key (PUK) codes, which enable mobile phones to be 'unlocked', are also traffic data as they provide access to the list of calls made held within the phone's memory.

13. Access to traffic data is only available to a limited number of organisations specified in orders made under RIPA. For example, the emergency services, police, Security Service. Most Government Departments, including the Department for Work and Pensions, do not have routine access to traffic data; neither do local authorities.

Obtaining information

14. Obtaining information from a telecommunications company will, in many cases, be a two-stage process.

- identify the provider and subscriber; then
- write to the provider for information.

Identifying the provider and telephone subscriber

15. In many cases, an Authorised Officer will commence enquiries with no more information than a telephone number.

16. Cardinal Communication Systems Limited provides a service that, in most cases, identifies the service provider relating to a particular telephone number. This is available on the Internet at: <http://www.ukphoneinfo.com/index.php> (link is external). Alternatively, Magenta Systems Ltd. offers a similar 'on-line' service at: <http://www.telecom-tariffs.co.uk/codelook.htm> (link is external)

17. Once identified, the Authorised Officer may write to the service provider in order to identify the name and address of the subscriber. No further information, such as billing information, can be obtained at this initial stage until the subscriber has been identified. Such a request would be potentially unlawful as it might generate personal information relating to an innocent third party.

18. If it appears that British Telecommunications (BT) is the service provider, **[Redacted]**

19. All other telecommunications service suppliers provide a fax service, some via a premium rate fax number. This means that the fax in the OIU used to make such enquiries needs to be enabled to call premium rate numbers.

Writing to the provider for information

20. Once the subscriber has been identified, and it is necessary to obtain billing information in respect of their account, the Authorised Officer will send the appropriate FRAIMS letter for any necessary information.

BSkyB trading as Sky

21. Sky is a media telecommunications system supplier within the meaning of the legislation, offering products and services which include; Sky TV, Sky Broadband and Sky Talk.

22. Social security legislation requires Sky to disclose information in relation to communication services provided. This applies to subscriber details for both Sky Broadband and Sky Talk, which can be requested by the Department under section 109B(2A)(j) of the Social Security Administration Act 1991.

23. Information should only be requested where reasonable grounds exist to suspect that a particular person identified by name or description is a person who has committed, is committing or intends to commit a benefit offence.

24. Sky TV is not regarded as a telecommunications service and therefore subscriber details cannot be obtained under section 109B(2A)(j). **[Redacted]**

[Redacted]

Factsheet 11 - Section 109B(2A)(k)

Educational establishments or Institutions

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

“(k) any person conducting any educational establishment or institution”.

2. This is a broad category which is mainly intended to be used to establish the status of persons who may be full time students in further and higher education, and hence not entitled to means tested benefits such as Income Support.

3. It applies, however, to “any educational establishment or institution”, so could be used to obtain information from, for example, schools.

4. Extreme care should be taken if an approach to a school is contemplated. There are issues of child protection, which make schools understandably protective of any information about their students. Be absolutely clear that the information is necessary for the purposes of the investigation and be prepared to justify this. As is the case with all Social Security Fraud Act (SSFA) enquiries, the request must be in writing and not made by visiting in person or by a telephone call.

Factsheet 12 - Section 109B(2A)(l)

Administration of educational establishments or institutions

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

“(l) any body the principal activity of which is to provide services in connection with admissions to educational establishments or institution”.

2. This category is included to enable Authorised Officers to acquire information from the Universities and Colleges Admissions Service (UCAS). The definition also encompasses other admissions services. The Department for Education and Skills advises that there are admissions services for public schools, language schools for overseas students and even nurseries.

3. UCAS will have information about current applications only.

Factsheet 13 - Section 109B(2A)(m)

The Student Loan Company

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

“(m) the Student Loans Company”.

2. The Student Loans Company are able to provide financial information about full-time students and their home circumstances during the lifetime of the loan.

3. The Student Awards Agency for Scotland is not covered by section 109B(2A) of the SSAA, as it is part of the Scottish Executive. Following devolution, it was not thought to be appropriate for Westminster to legislate for powers to require the Executive to provide information.

4. [Redacted]

Factsheet 14 - Section 109B(2A)(n)

Servants or agents of the above

1. The Administration Act lists the organisations from which information may be required at Section 109B(2A).

“(n) any servants or agents of any person mentioned in any of the preceding paragraphs”.

2. Servants and agents are paid and unpaid employees and persons who are authorised to act for or in place of another. For example, an organisation may contract another body to manage its payroll or handle the storage and maintenance of its records.

3. A company's lawyers or accountants would not normally be their servants or agents unless they were employed in a multifunctional capacity and acting as, for example, payroll managers or information managers, in which case they could be required to provide information which they had access to in that capacity.

10 Who does what

Who does what

Information Source	Information that can be requested	Legal Gateway (a)	Enquiry made by
Advertising	<ul style="list-style-type: none"> • Who placed advert • Cost • Frequency • Method of payment 	Data Protection Act 2018 paragraph 2(1) of Schedule 2 (link is external)	Investigations
Airlines	<ul style="list-style-type: none"> • Name(s) of passengers • Dates of travel 	Data Protection Act 2018 paragraph 2(1) of Schedule 2 (link is external)	Investigations
Armed Forces	<ul style="list-style-type: none"> • Details of service • Postings • Next of Kin 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Intelligence Authorised Officer

		(link is external)	
Armed Forces (MOD)	<ul style="list-style-type: none"> • Pension details 	Social Security Administration Act 1992 s109B(2)(h)	Investigations (Authorised Officer)
Banks / Building Societies Factsheet 1 - s109B(2A)(a)	<ul style="list-style-type: none"> • Bank account details • Savings • Mortgages • Business Accounts 	Social Security Administration Act 1992 s109B(2A)(a)	Intelligence Authorised Officer
Bingo Clubs	<ul style="list-style-type: none"> • Membership details 	Data Protection Act 2018 paragraph 2(1) of Schedule 2 (link is external)	Investigations
British Broadcasting Corporation (BBC)	<ul style="list-style-type: none"> • TV licence holder name • Method of payment • Date of expiry 	Data Protection Act 2018 paragraph 2(1) of Schedule 2 (link is external)	Criminal Intelligence Authorised Officer
BSkyB (trading as	<ul style="list-style-type: none"> • Sky Broadband 	Social	Operational

<p>Sky)</p> <p>Sky will only respond to SSFA queries where a telephone line is present</p> <p>(Not applicable to Sky TV and associated products)</p>	<p>subscriber details</p> <ul style="list-style-type: none"> • Sky Talk subscriber details <p>Factsheet 10 - s109B(2A)(l)</p>	<p>Security Administration Act 1992 s109B(2A)(j)/</p>	<p>Intelligence Authorised Officer</p>
<p>Cable / Digital TV Providers</p> <p>Factsheet 10-s109B(2A)(i)</p>	<ul style="list-style-type: none"> • Customer records 	<p>Social Security Administration Act 1992 s109B(2A)(j)</p>	<p>Operational Intelligence Authorised Officer</p>
<p>Care Standards in Wales</p>	<ul style="list-style-type: none"> • Childminding register details 	<p>Public Domain (Wales only)</p>	<p>Investigations</p>
<p>Charities Commission</p>	<ul style="list-style-type: none"> • Details of registered charities • Trustee details 	<p>Public Domain</p>	<p>Investigations</p>
<p>Child Maintenance & Enforcement Commission (CMEC)</p>	<ul style="list-style-type: none"> • Details of absent parent • Maintenance 	<p>DWP internal information</p>	<p>Investigations</p>
<p>CIFAS (via Credit Reference</p>	<ul style="list-style-type: none"> • Address based information on suspected, 	<p>Social Security Administration</p>	<p>Intelligence Authorised Officer</p>

Agencies) Factsheet 5 - s109B(2A)(e)	attempted or actual fraud against lenders	n Act 1992 s109B(2A)(e)	
Companies House (link is external)	<ul style="list-style-type: none"> • Company directorships • Published business accounts 	Public Domain- available on line	Operational Intelligence Authorised Officer investigations
Compensation Recovery Unit	<ul style="list-style-type: none"> • Insurance payments relating to injuries and/or accidents 	DWP Internal information	Investigations
Credit Reference Agencies Factsheet 4 - s109B(2A)(d)	<ul style="list-style-type: none"> • Financial details • Footprints from other financial institutions 	Social Security Administratio n Act 1992 s109B(2A)(d)	Operational Intelligence Authorised Officer
Criminal Injuries Compensation Board	See 'Home Office Justice & Victims Unit'		
Disclosure and Barring Service (DBS) (formally Criminal Records Bureau (CRB)	<ul style="list-style-type: none"> • Name of Applicant • Name and address of applicant's employer • Applicant's address history 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Fraud and Error Service Investigations

Driving Standards Agency (DSA)	<ul style="list-style-type: none"> • Driving instructor details 	Data Protection Act 2018 paragraph 2(1) of Schedule 2 (link is external)	Investigations via National Anti-Fraud Network (NAFN) website
Driver & Vehicle Licensing Agency (DVLA)	<ul style="list-style-type: none"> • Owners Name 	Data Protection Act 2018 paragraph 2(1) of Schedule 2 (link is external)	Fraud and Error Service Investigations via National Anti-Fraud Network (NAFN) website
Driver & Vehicle Licensing Agency (DVLA)	<ul style="list-style-type: none"> • Address(es) • Licences held • Dates • Keeper details of Trade Plates 	DVLA will not respond to such requests	
e-Bay / Paypal	To note although information is available from e-Bay there is no access to Paypal, which renders e-Bay information of little value.		
easyJet	Passenger and booking information	Data Protection Act 2018 paragraph 2(1) of Schedule 2 (link is external)	Abroad Fraud Desk - Operational Intelligence Authorised Officer

Education Establishments Factsheet 11 - s109B(2A)(k)	<ul style="list-style-type: none"> • Attendance records • Details of full/part time education • Emergency contact details 	Social Security Administration Act 1992 s109B(2A)(k)	Operational Intelligence Authorised Officer
Electoral Roll	See 'Local Authorities'		
Employers	<ul style="list-style-type: none"> • Wage details • Identification of individuals 	Social Security Administration Act 1992 s109B(2)(a - c) (Working Investigations)(Section 35 - Earnings Enquiry)	Investigations
Estate Agents	<ul style="list-style-type: none"> • Owner details • Purchaser details • Price • Dates • Method of payment • Lettings 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
Financial Services Authority (FSA)	<ul style="list-style-type: none"> • Independent Financial Advisers (Accounts, etc) 	Data Protection Act 2018 paragraph	Operational Intelligence Authorised Officer

		2(1) of Schedule 2	
Fire & Rescue Service	<ul style="list-style-type: none"> • Fire Safety Certificate details 	Public Domain	Investigations
Foreign & Commonwealth Office (FCO)	<ul style="list-style-type: none"> • British nationals living and/or working abroad 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Operational Authorised Officer
Foreign Embassies	<ul style="list-style-type: none"> • Foreign nationals • British national in that country 	None – Apply in writing stating nature of request	Operational Intelligence Authorised Officer
General Records Office (GRO)	<ul style="list-style-type: none"> • Births • Marriages (if location known) • Deaths 	Public Domain (E&W only) (Requesting Certificates in E&W)	Investigations
Golf Clubs	See 'Leisure facilities'		
Gyms	See 'Leisure facilities'		
Harbour Master	<ul style="list-style-type: none"> • Boat - - Ownership - Movements 	Data Protection Act 2018 paragraph 2(1) of	Investigations

	<ul style="list-style-type: none"> - Dates - Berthing fees 	Schedule 2	
Health & Safety Executive (HSE)	<ul style="list-style-type: none"> • Site/Premises details • Nominated person details • Licensing of hazardous waste • Inspection reports 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
HM Revenue & Customs (HMRC) (Obtaining Information from the HMRC)	<ul style="list-style-type: none"> • Dates of employment • Amounts of earnings • Dates of self employment • Amount of drawings • Subcontractors payments shown on Construction Industry Scheme (CIS) vouchers • Name & address of employer 	Social Security Administration Act 1992 s122(1)(a)(i)	Operational Intelligence Authorised Officer
HM Revenue & Customs (HMRC) (Obtaining information from the HMRC)	<ul style="list-style-type: none"> • VAT receipts & forms • Self-employed turnover • Bootleggers 	Social Security Administration Act 1992 s122(1)(b)(i)	Investigations

	<ul style="list-style-type: none"> • Ports & Airport traffic 		
HM Prison Services	<ul style="list-style-type: none"> • Identity details • Dates 'In & Out' • Visitor details 	Social Security Administration Act 1992 s122B(a)	Investigations
High Commissions	<ul style="list-style-type: none"> • Foreign nationals • British national in that country 	None – Apply in writing stating nature of request	Operational Intelligence Authorised Officer
Home Office Justice & Victims Unit	<ul style="list-style-type: none"> • Payments made for criminal injury or false imprisonment (covered by Department of Constitutional Affairs) 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
Housing Associations	<ul style="list-style-type: none"> • Tenancy details • Occupants • Dates • Method of payment 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
Identity and Passport Service (IPS)	<ul style="list-style-type: none"> • Passport details 	Social Security Administration Act 1992 s122(a)	Operational Intelligence Authorised Officer

Insurance Companies	<ul style="list-style-type: none"> • Pay outs • Mortgage protection policy details • Motor insurance details 	Social Security Administration Act 1992 s109B(2A)(c) Factsheet 3 - s109B(2A)(c)	Criminal Intelligence Authorised Officer
Internet Enquiries (Social Network Sites)	See: Use of the Internet in Fraud Investigations / Open Source Instructions		
Internet Enquiries Factsheet 6 - s109b(2A)(f)	<ul style="list-style-type: none"> • PayPal account details • eBay transactions 	Social Security Administration Act 1992 s109B(2A)(f)/ SSFA Data Protection Act 2018 paragraph 2(1) of Schedule 2	Operational Intelligence Authorised Officer
Interpol Enquiry Desk Disclosure of Information to third parties	<ul style="list-style-type: none"> • Check on vehicles with foreign registration plates 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Operational Intelligence National Disclosure Unit - Folkestone
Land Registry	<ul style="list-style-type: none"> • Land details • Ownership details 	Public Domain	Operational Intelligence Authorised Officer

	<ul style="list-style-type: none"> • Dates of purchase/Registration • Previous owner (E&W only) 		
Landlords - Enquiries in respect of rent payments	Rent payment enquiries are restricted to claims to Universal Credit	Social Security Administration Act 1992 s109B(2)(ia)	Investigations (Authorised Officer)
Leisure Facilities	<ul style="list-style-type: none"> • Membership details • Activities undertaken 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
Legal Aid Board	• Details of Legal Aid claims	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
Local Authorities	• Building Grants/Improvements	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
	• Building Inspectorate	Data Protection Act 2018 paragraph	Investigations

	2(1) of Schedule 2	
• Business Rates	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
• Child Minder Details (not Wales)	Public Domain	Investigations
• Council Tax (Non benefit)	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
• Education Grants/Awards	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
• Electoral roll (unabridged)	Representation of the People (England & Wales) (Amendment) Regulation 2002 - RPR 2002	Investigations

• Electoral Roll (abridged)	Public Domain	Investigations
• Environmental Health	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
• Housing Benefit / Council Tax Benefit (HB / CTB) (current benefit awards or relevant past periods)	Social Security Administration Act 1992 s122D	Investigations
• Housing Department & Rent Officer – - Waiting list - Local knowledge	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
• Housing Benefit (low income grounds)	Social Security Administration Act 1992 s122D(a)	Investigations
• Market traders	Social Security Administration Act 1992 s109B(2)(g)	Investigations (Authorised Officer)

<ul style="list-style-type: none"> • Parking Permits - details of who holds the permit 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
<ul style="list-style-type: none"> • Planning 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
<ul style="list-style-type: none"> • Private Hire Licences • Hackney Carriage licences 	Social Security Administration Act 1992 s109B(2)(g)	Investigations (Authorised Officer)
<ul style="list-style-type: none"> • Social Services – - Child in care - Dates 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Fraud and Error Service Investigations
<ul style="list-style-type: none"> • Trading Standards 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Fraud and Error Service Investigations
<ul style="list-style-type: none"> • Travel Liaison Officer - Address(es) 	Data Protection Act 2018	Fraud and Error Service Investigations

	<p>details</p> <ul style="list-style-type: none"> - Local knowledge 	<p>paragraph 2(1) of Schedule 2</p>	
Magistrates Court – Licensing	<ul style="list-style-type: none"> • Licensee details • When license issued • Duration 	<p>Public Domain</p>	<p>Fraud and Error Service Investigations</p>
Money shops	<ul style="list-style-type: none"> • Encashment details post payment 	<p>Social Security Administration Act 1992 s109B(2A)(b) / SSFA</p>	<p>Criminal Intelligence Authorised Officer</p>
National Health Service (NHS) Counter Fraud Services	<ul style="list-style-type: none"> • General Practitioner (GP) registration • Checks of medical cards 	<p>Data Protection Act 2018 paragraph 2(1) of Schedule 2</p>	<p>Fraud and Error Service Investigations</p>
NHS Hospital Trusts	<ul style="list-style-type: none"> • Next of kin/parent details • Declared addresses 	<p>Data Protection Act 2018 paragraph 2(1) of Schedule 2</p>	<p>Fraud and Error Service Investigations</p>
Newspapers	<ul style="list-style-type: none"> • Who placed advert • Cost 	<p>Data Protection Act 2018 paragraph</p>	<p>Fraud and Error Service Investigations</p>

	<ul style="list-style-type: none"> • Frequency • Method of Payment 	2(1) of Schedule 2	
NHS Healthcare Trusts & Hospitals	<ul style="list-style-type: none"> • Details of admission(s) and discharge(s) • Registration documents 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Fraud and Error Service Investigations
Office of National Statistics (ONS)	<ul style="list-style-type: none"> • Births • Marriages (if location not known) • Deaths 	Public Domain	Fraud and Error Service Investigations
Paypal	See 'e-Bay'		
Pensions Companies	<ul style="list-style-type: none"> • Pay outs • Pension details – ex employees 	Social Security Administration Act 1992 s109B(2)(h)	Fraud and Error Service Investigations
Police	Local intelligence for risk assessments & arrests, (via Local Intelligence Officer liaison)	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Fraud and Error Service Investigations
Police (Non UK)	<ul style="list-style-type: none"> • Alien registrations in that country • Contact with 	None – Apply in writing stating nature	Criminal Intelligence National Disclosure Unit - Folkestone

	<p>suspects</p> <p>(via local Police to Interpol)</p>	of request	
Post Office Counters	<ul style="list-style-type: none"> • Witness statements • Video evidence 	Criminal Justice Act (CJA) 1967 s9	Fraud and Error Service Investigations
Probate Office	<ul style="list-style-type: none"> • Wills • Details of Estate 	Public Domain	Fraud and Error Service Investigations
Public House Licenses	See under 'Magistrate Court Licensing'		
Registers of Scotland	<ul style="list-style-type: none"> • Land details • Ownership details • Dates of purchase/Registration • Previous owner (Scotland only) 	<p>Public Domain</p> <p>On line access in Glasgow OIU</p>	Criminal Intelligence Authorised Officer (Glasgow OIU)
General Register Office for Scotland (GROS)	<ul style="list-style-type: none"> • Births • Marriages (if location known) • Deaths 	Public Domain (Scotland only)	Fraud and Error Service Investigations
Registry Offices England & Wales	See under 'General Records Office'		

Royal Mail	<ul style="list-style-type: none"> • Mail re-direction details • Dates • PO Box subscriber details 	Social Security Administration Act 1992 s109B(2A)(j)/ SSFA	Criminal Intelligence Authorised Officer
Security Industry Authority (SIA)	<ul style="list-style-type: none"> • Licence number • First name, last name • Activity (e.g. door supervision) for which the individual is licensed. • Role (front line or non-front line) • Licence expiry date • Licence status (active, expired, revoked, suspended, withdrawn, replaced) • The date the licence status changed. • For revoked licences this is the date when the information was uploaded onto the register: it may not be the date when the revocation took effect. You should 	Public Domain (via SIA website)	Fraud and Error Service Investigations

	check the letter notifying you of the revocation process for the actual date of revocation.		
Security Industry Authority (SIA)	<ul style="list-style-type: none"> • Application forms • Witness statements 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Criminal Intelligence Authorised Officer
Sky	See 'BSkyB'		
Student Awards Agency for Scotland	<ul style="list-style-type: none"> • Tuition fee details of eligible Scottish / EU students • Details of bursaries and supplementary grants • Loan applications are made to the Student Loan Company (see below) 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Operational Intelligence Authorised Officer
Student Loan Company Factsheet 13 - s109B(2A)(m)	<ul style="list-style-type: none"> • Loan applications details 	Social Security Administration Act 1992 s109B(2A)(m) /	Operational Intelligence Authorised Officer

Sports Clubs	See 'Leisure Facilities'		
Telecommunications Factsheet 10 - s109B(2A)(i)	<ul style="list-style-type: none"> • Bill Payee details • Method of Payments 	Social Security Administration Act 1992 s109B(2A)(j)	Operational Intelligence Authorised Officer
Traffic Commissioner	<ul style="list-style-type: none"> • Licences issued for – - Public Service Vehicles (PSV) - Heavy Goods Vehicles (HGV) - Companies operating 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
UK Visas and Immigration	<ul style="list-style-type: none"> • Immigration status • Background on self employer persons of foreign extraction 	Social Security Administration Act 1992 s122B(a)	Investigations
Universities and Colleges Admissions Services (UCAS) Factsheet 12 - s109B(2A)(h)	<ul style="list-style-type: none"> • University details • College placements 	Social Security Administration Act 1992 s109B(2A)(l)	Intelligence Authorised Officer

Utilities Factsheet 8 - s109B(2A)(h)	<ul style="list-style-type: none"> • Usage • Bill payee details • Arrears • Method of Payment 	Social Security Administration Act 1992 s109B(2A)(h)	Operational Intelligence Authorised Officer
Vehicle Hire Companies	<ul style="list-style-type: none"> • Name(s) of hire • Dates of hire • Use • Method of Payment 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations
Vehicle Inspectorate	<ul style="list-style-type: none"> • Vehicle ownership details • Number of commercial vehicle owned • Tachometer mileage, dates and times 	Data Protection Act 2018 paragraph 2(1) of Schedule 2	Investigations

11 Obtaining information from other external sources

Obtaining information from the HM Revenue and Customs

1. Note: This guidance relates to information previously held by Inland Revenue only. Requests for information previously held by HM Customs and Excise are unaffected by this guidance and current procedures should continue to be used.

2. Section 122 of the Social Security Administration Act 1992 provides a legal gateway allowing HMRC to directly disclose tax information to the Department for Work and Pensions (DWP) for use in:

- the prevention, detection, investigation or prosecution of social security offences or
- checking the accuracy of social security information.

3. Although the Act provides a legal gateway for the supply of information held by tax authorities, the provisions for disclosure are permissive in nature and do not impose an

obligation on HMRC to disclose the information requested. Therefore, each request must justify why the information is required.

4. Agreement has been obtained from HMRC to consider all requests for information made by DWP, where the request has been made in the specified manner. DWP have agreed that requests for HMRC information will only be made after justification for the need for the information has been provided on a fully completed Request for Information (RFI) form.

Information available from HMRC

5. The only information HMRC will consider disclosing is:

[Redacted]

6. HMRC will also consider disclosure of the above information in respect of third parties provided there is sufficient information to establish that the benefit claimant and third party are connected.

7. **[Redacted]**

Operational Intelligence Unit action

8. The Operational Intelligence Unit (OIU) Intelligence Gathering Officer (IGO) will process the request in line with normal procedures, but must ensure that there is sufficient information on the request letter to demonstrate why the information is necessary for the prevention or detection of fraud or why it is necessary to check the accuracy of Social Security information.

9. The IGO will also be required to confirm on the request that a Request For Information (RFI) has been completed and examined to support the request by ticking the 'RFI examined' box.

10. All requests should be sent to the local Her Majesty's Revenue and Customs (HMRC) contact.

Obtaining sensitive case information on Tax Credit cases - DWP only

11. The introduction of Tax Credits meant that access to certain claims and changes of circumstances became restricted because HMRC approach the classification of benefit claims in a different way to the DWP.

12. Certain individuals and employers are classified by the HMRC as 'secure', depending upon their circumstances. This means that any claimant who works for such an employer is regarded as a secure claimant and access to their claim is restricted.

13. In order to comply with HMRC requirements, requests will only be accepted from nominated contacts within the local OIU. Therefore, all requests for sensitive information must be made on the RFI and forwarded to the OIU. HMRC will not disclose information to anyone other than the nominated contacts.

14. Paragraph 7 of Schedule 5 of the Tax Credits Act 2002 contains a legal gateway for the exchange of information between the HMRC and authorities administering Housing Benefit or Council Tax Benefit.

15. Under this provision the HMRC may supply information to Local Authorities for the use in the administration of the respective benefits and therefore, any requests for tax credit information should be made directly to HMRC.

Information available

16. HMRC will only disclose information that is held on the Tax Credit screens. No other information will be released.

17. HMRC will be unable to provide employment details for the sensitive/secure person because the NTC system does not retain them for such cases once they have been processed. The details are available for non-sensitive partners in such cases, as these are retained.

OIU action

18. On receipt of a request for sensitive Tax Credit information, the IGO will process the request in the same manner as any other request for information and make the request to:

[Redacted]

19. HMRC will provide the information requested within five working days of receipt of the request.

Obtaining information on behalf of Local Authorities

20. Section 122 of the Social Security Administration Act 1992 provides a legal gateway allowing Her Majesty's Revenue and Customs (HMRC) to supply tax information directly to the Department for Work and Pensions (DWP).

21. The provisions in the Act are permissive and do not oblige HMRC to supply information to the DWP.

22. The provisions under this Act do not allow HMRC to supply information directly to Local Authorities (LAs). However, under Section 122C(2) of the Act, tax information can be supplied to the DWP on behalf of LAs for the following purposes:

- for use in the prevention, detection, investigation or prosecution of offences relating to housing benefit or council tax benefit (prior to 1 April 2013) or
- for use in checking the accuracy of information of information relating to Housing Benefit or Council Tax Benefit (prior to 1 April 2013) and (where appropriate) amending or supplementing such information.

23. Agreement has been obtained from HMRC to consider all requests for information made by DWP on behalf of LA's, where the request has been made in the specified manner.

24. DWP have agreed that requests for HMRC information will only be made after justification for the need for the information has been provided on a fully completed Request For Information (RFI) form.

25. All local authority requests for HMRC tax information must be sent to the Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence Operational Intelligence Unit (OIU) in **[Redacted]** the RFI.

26. This guidance does not relate to information previously held by HMRC.

Operational Intelligence Unit action

27. Upon receipt of a correctly completed RFI form from the LA, the Intelligence Gathering Officer (IGO) must record the request on a spread sheet.

28. Although the IGO is not required to complete or sign part two of the RFI form, they must check the validity of the request as it is being made by DWP.

29. All requests should be sent to the appropriate HMRC Risk, Intelligence and Analysis Team (RIAT). If a reply is not received within 5 days of the BF date, the IGO should contact the RIAT to review progress.

30. Once a reply has been received from HMRC, details will be forwarded to the LA.

31. There is no requirement for the IGO to consider follow on checks or complete Part 3 of the RFI form in these cases.

Obtaining Tax Credit Information

32. The above process does not apply to information relating to Tax Credits. Paragraph 7 of Schedule 5 of the Tax Credits Act 2002 contains a legal gateway for the exchange of information between the HMRC and authorities administering Housing Benefit or Council Tax

Benefit (prior to 1 April 2013). Under this provision HMRC may supply information to local authorities for the use in the administration of the respective benefits.

Obtaining Social Security Fraud Act 2001 information on behalf of local authorities

33. Section 122C of the Social Security Administration Act 1992 provides a legal gateway allowing the Secretary of State to directly disclose information to local authorities for the administration of Housing Benefit and Council Tax Benefit (prior to 1 April 2013) (HB/CTB).

34. This section allows CFCD Criminal Intelligence Operational Intelligence Units (OIUs) to disclose information, such as information obtained using information gathering powers contained in SSFA on behalf of local authorities.

35. All local authority requests must be sent to the appropriate regional OIU on a completed RFI.

36. Requests for information are passed onto the Authorised Officer who will process them in accordance with procedures and instructions contained in this guide.

Obtaining information from the Republic of Ireland

37. This guidance is for enquiries to the Irish Republic only. It should not be used for enquiries to Northern Ireland.

38. The Memorandum of Understanding (MoU) with the Irish Minister of Social, Community and Family Affairs provides for closer co-operation to combat transnational welfare fraud and illegal working.

39. A Management Committee of senior officials from Great Britain, Northern Ireland and the Irish Republic was formed to oversee this co-operation.

40. One product of this has been to formalise the process for the exchange of information between the three administrations where the information is required to combat welfare fraud, such as, social security fraud involving contributory benefits and social assistance fraud involving non-contributory benefits.

The process

41. All enquiries will be made using the [Request for Information - Republic of Ireland](#). This can be saved as a Word file and completed on your PC.

42. Complete the form giving as much relevant detail as possible. Then print it out and sign it. The completed enquiry should be sent directly to the central point of contact in Ireland, rather than via the National Disclosure Unit, **[Redacted]** (NDUF).

43. If sending by fax, send to fax number **[Redacted]** Note that if your fax machine has call blocking for international calls, you will need to have this unblocked, or send your enquiry by post.

44. If sending by post, send to:

[Redacted]

45. Forms cannot be sent by e-mail at present, as they must be signed. If electronic signatures become available for all staff this policy may be revised.

46. Control Division will obtain the information from the appropriate body responsible for the benefit in question, and fax or post a reply back to you. Target turnaround time is fifteen days, but this may be exceeded in some cases.

47. You should retain either; the original of the request, if faxed, or a photocopy, plus the reply, on the fraud file, or in accordance with normal operating procedure for CFCD Criminal Investigations.

48. Similar arrangements will operate for enquiries originating in the Irish Republic and in Northern Ireland. All enquiries from the Irish Republic should be directed to NDUF. If you receive an enquiry in error, please forward it to NDUF as follows:

49. If sending by fax, send to fax number **[Redacted]**

50. If sending by courier, send to:

[Redacted]

51. If sending by post, place the form in an addressed inner envelope, place this in an outer envelope and send to:

[Redacted]

Obtaining information from the Netherlands

52. The Memorandum of Understanding (MoU) with the Dutch Minister of Social Affairs and Employment provides for closer co-operation to combat trans-national welfare fraud and illegal working.

53. A Management Committee of senior officials from Great Britain, Northern Ireland and the Netherlands has been formed to oversee this co-operation.

54. One product of this has been to formalise the process for the exchange of information between the three administrations where the information is required to combat welfare fraud, such as, social security fraud involving contributory benefits and social assistance fraud involving non-contributory benefits.

The process

55. All enquiries will be made using the [Request for Information - Netherlands](#). This can be saved as a Word file and completed on your PC.

56. Complete the form giving as much relevant detail as possible. Then print it out and sign it. The signed form can then be sent to the National Disclosure Unit, **[Redacted]** (NDUF) by fax, by courier or by post.

57. If sending by fax, send to fax number **[Redacted]**

58. If sending by courier, send to:

[Redacted]

59. If sending by post, place the form in an addressed inner envelope, place this in an outer envelope and send to:

[Redacted]

60. Forms cannot be sent by e-mail at present, as they must be signed. When electronic signatures become available for all staff this policy will be revised.

61. Upon receipt all request will be checked for sufficient information and reasonableness. If necessary NDUF will contact you to clarify details or request further information.

62. Accepted requests will be faxed to the central point of contact in the Netherlands **[Redacted]**

63. They will obtain the information from the appropriate body responsible for the benefit in question, and fax a reply back to NDUF. DO NOT send requests directly to IBF as these will not be actioned.

64. Target turnaround time is fifteen days, but this may be exceeded in cases where the information needs to be obtained from a Dutch local authority as local authorities/municipalities administer all means tested benefits.

65. NDUF will pass this reply on to the originator of the request. You should retain either; the original of the request, if faxed, or a photocopy, plus the reply, on the fraud file.

66. Similar arrangements will operate for enquiries originating in the Netherlands and in Northern Ireland. All enquiries from the Netherlands should be directed to NDUF. If you receive an enquiry in error, please forward it to NDUF.

12 Intelligence Gathering - Internet Desk

[Redacted] Operational Intelligence Unit Internet Desk

The Internet Desk based at [Redacted] Operational Intelligence Unit (OIU) has been set up specifically to assist Counter Fraud and Compliance Directorate (CFCD) in the gathering of intelligence or information from those sites routinely blocked due to departmental policy.

Requirements for requesting information from the Internet Desk

It is important that the Fraud Investigator (FI) has established that there is an Internet Site blocked by Department for Work and Pensions (DWP) filters, mentioned in the Fraud Referral Form (FRF) or established during the course of the investigation before submitting a request for Internet Desk checks. This can include potential sites identified by the FI during Internet searches. If there are no reasonable grounds to suspect a link exists, then a submission is not suitable for Internet Desk action at this point.

Intelligence requests for information from blocked sites will be managed on Fraud Referral and Intervention Management System (FRAIMS) by creating and sending an activity to the [Redacted] see [FRAIMS guidance – Referrals to the FES Internet Team](#)
For secondary requests, if the Fraud Investigator (FI) discovers new information during the course of the investigation a further submission should be made by completing a new FRAIMS activity and sending it to the [Redacted]

Living Together Cases

[Redacted]

Video

If video clips are required they can be requested from the Internet Desk Team by supplying the link, if known, on the FRAIMS activity. If appropriate, these video clips will be downloaded onto a DVD by the Internet Desk Officer (IDO).

[Action by Internet Desk Officer \(link is external\)](#)

When the IDO is satisfied that the information request is justified, they will access those websites considered appropriate to the case and supply information which is proportionate and relevant to the enquiry.

Following access, IDO will detail the request findings on FRAIMS and provide a CD and/or DVD containing any relevant information, which will be securely issued to the requesting FI. CDs provided to the FI will be scanned for viruses to ensure that no viruses or other security risks are found. These will be password protected. The password will appear in the FRAIMS activity created by the IDO to allow access to the CD upon its receipt.

DVDs provided to the Fraud Investigator (FI) will be scanned for viruses to ensure that no viruses or other security risks are found. DVDs are not encrypted, allowing the Fraud Investigator (FI) to playback on DVD players. All CDs and DVDs are tested prior to dispatch to ensure they can be viewed on standard DWP PCs. The Internet Desk Officer will not retain a copy of any information supplied and therefore will not be in position to provide duplicates if

the original CD or DVD is damaged or lost. For more information, see [FRAIMS guidance – Referrals to the FES Internet Team](#)

Interview Under Caution

00 Introduction

1. If there are grounds to suspect a person or persons of committing a criminal offence they must be cautioned before any questions about the offence, are put to them. Their answers or silence may be given to a court in criminal proceedings.

Police and Criminal Evidence Act 1984 – England and Wales

2. Section 67(9) of the Police and Criminal Evidence Act (PACE) 1984 states that:

“Persons other than Police Officers charged with a duty of investigating offences or charging offenders shall in the discharge of that duty have regard to any relevant provision of a code of practice made under the Act.”

3. PACE Code Of Practice (COP) C 11.1A states that the questioning of a person regarding their involvement in a criminal offence must be carried out under caution. Code E covers the audio recording of interviews with suspects.

4. Investigators must be conversant with the content of these codes and apply them when interviewing persons under caution

5. The right to free legal advice only applies in police arrest cases when the accused is arrested by the police and interviewed at a police station. Free legal advice does not apply to interviews conducted at the premises of Department for Work and Pensions (DWP) / Local Authorities (LAs).

6. A breach of the COP could result in a court ruling that the evidence should be excluded and as such the excluded evidence would be rendered inadmissible. An inadmissibility ruling could result in the case being withdrawn.

7. Officers must also comply with the provisions of the Criminal Procedure and Investigations Act (CPIA) 1996 - Code of Practice, amended by the Criminal Justice Act 2003 Code of Practice (April 2005).

Public access to Codes Of Practice

8. In England and Wales a copy of the PACE COP must be readily available at all times for the public to consult if they wish. No other versions/adaptations of the codes should be made available, unless the interview is conducted in the Welsh language in which case the Welsh version of PACE COP must be available.

The Test of Fairness - Scotland

9. The 'Test of Fairness' is a matter of fact and degree depending on the circumstances of each case. This is not governed by legislation but is a common law doctrine

10. Although the requirements of PACE do not apply in Scotland, the principles are good practice. Therefore investigators should ignore all references to PACE and follow this guidance, except where indicated that it applies to England and Wales only.

11. If the Procurator Fiscal considers that an investigation has been conducted unfairly, or evidence has been obtained unfairly, he will not proceed with the case. In court, if the defence question the conduct of the investigation or the manner in which evidence was obtained, the Sheriff will decide the question of 'fairness'.

12. If the Sheriff decides that the conduct of the investigation was not fair or that the evidence was obtained unfairly, the case will fail and the accused will be found Not Guilty.

13. Providing an interview is considered to be fair, a prosecution may still go ahead although the accused had not been cautioned. However, cautioning a person suspected of committing an offence is advisable before questioning, as this eliminates the risk of evidence being deemed inadmissible in court

01 Planning and Preparation

When to Interview Under Caution

1. If there are grounds to suspect a person or persons of committing an offence they must be cautioned before any questions about the offence are put to them. If the interview is not conducted under caution this is a breach of the Police and Criminal Evidence Act (PACE) 1984 or could fail the Test of Fairness.

2. 'Grounds to suspect' are described in PACE as:

- "There must be some reasonable, objective grounds for the suspicion, based on known facts or information which are relevant to the likelihood the offence has been committed and the person to be questioned committed it".

3. In England and Wales, if a person suspected of committing an offence is questioned about that offence without at first being cautioned, any evidence elicited from the questioning, may be excluded from criminal proceedings if the court determines that there has been a material breach of PACE Code of Practice (CoP). [PACE Code C sets out the requirements for the detention, treatment and questioning of suspects \(link is external\)](#) and [PACE Code D governs the exercise by police of statutory powers to identify persons](#) .

4 If a person is not suspected of having committed an offence and subsequently answers questions, which raise a reasonable suspicion that an offence may have been committed, the interviewer must suspend the interview and arrange a separate Interview Under Caution (IUC), or must conduct an IUC there and then if it is practicable to do so.

5. In Scotland, any admissions or evidence obtained where the interviewee has not been cautioned might be deemed inadmissible.

6. In England and Wales, following the arrest of a suspect in a Criminal Investigation, the suspect is interviewed at the police station where they are detained. The interview must be conducted under the authority of the police.

7. In Scotland, in a Criminal Investigation, the suspect is either detained under section 14 of the Criminal Procedure (Scotland) Act (CP(S)A) 1995 or asked to be interviewed on a voluntary basis.

Seven principles of investigative interviewing

8. The investigator must decide on a suitable time to interview a suspect. This depends, to some extent, on the evidence already held. When the suspect is in police custody, the interview takes place as soon as possible after the arrest allowing for legal representation, if required, to be present. This is extended to cover time allowed for the searching of premises and the provision of an interpreter if appropriate.

9. The Association of Chief Police Officers (ACPO) Steering Group on Investigative Interviewing approved the following seven principles, which apply equally to the interviewing of witnesses and suspects:

- the aim of investigative interviewing is to obtain accurate and reliable accounts from victim's witnesses or suspects about matters under investigation
- investigators must act fairly when questioning victims, witnesses and suspects. Vulnerable people must be treated with particular consideration at all times
- interviewing must be approached with an investigation mindset. Accounts obtained from the person who is being interviewed must always be tested against what the investigator already knows or what can reasonably be established
- when conducting an interview, investigators are free to ask a wide range of questions in order to obtain material which may assist an investigation
- investigators must recognise the positive impact of an early admission in the context of the criminal justice system
- investigators are not bound to accept the first answer given. Questioning is not unfair merely because it is persistent
- even when the right to silence is exercised by a suspect, investigators have a responsibility to put questions to them

Preparation for the interview

Structure of the interview

10. The [IUC Plan Template \(link is external\)](#) is good practice when preparing for an IUC but is not mandatory. When appropriate an Investigator and Team Leader's Case Conference should take place for complex cases or for inexperienced Investigators and the plan should be used in these cases. As an interviewer, the investigator is primarily responsible for the planning and conduct of the interview. A well-planned and carefully conducted interview has a good chance of obtaining accurate and reliable information.

11. The 'PEACE' and 'PRICE' models provide effective frameworks to investigative interviewing allowing an investigator to manage, monitor, respond, control and evaluate information gathered through effective communication.

PEACE - England and Wales

12. PEACE stands for:

- Preparation and Planning
- Engage and Explain
- Account, Clarification and Challenge
- Closure
- Evaluation

13. The PEACE Model is drawn from the National Crime Faculty manual 'Practical Guide to Investigative Interviewing'.

PRICE - Scotland

14. PRICE stands for:

- Preparation and Planning

- Rapport Building
- Information Gathering
- Confirming and Content
- Evaluate and Action.

15. For further information on these models, see [07 - PEACE and PRICE Models](#).

Planning the interview

16. Planning before any interview is vitally important and involves the following:

- background data
- the interviewee
- the law
- the location
- providing facilities
- personnel
- administrative arrangements
- aims and objectives

17. The investigator must thoroughly check the documents to be shown at the IUC to ensure that any sensitive or collateral information is identified. Such documents should be annotated in accordance with instructions, for further information, see Evidence Files – Sensitive information. A sensitive information check (RM7 check) must be completed and an activity recorded on FRAIMS to record this action has been taken, even if no sensitive information is identified.

18. It is important that the investigator remove all sensitive material from the documents prior to the IUC by conducting this sensitive information RM7 check. **[Redacted]**

19. Sensitive documents, for example written allegations or information obtained from neighbourhood enquiries, must only be produced at IUC where explicit permission to do so is obtained from the appropriate member of the public. In all cases, the investigator must ensure that the member of the public is fully aware of the possible consequences of disclosing such information.

20. Documents containing collateral information, for example a bank statement applicable to an alleged partner, may be shown to a claimant at IUC, however all irrelevant information, such as bank account number or unrelated transaction details, must be blanked out prior to IUC.

21. In the event that any sensitive or collateral information is disclosed by the department inappropriately, it is essential that you advise your line manager, the relevant Information Asset Owner (IAO) and the relevant security advisor. Any incidents involving non-Jobcentre Plus data would need to be notified to both the Jobcentre Plus IAO and the original IAO.

22. Consider whether the claimant requires an [appropriate adult](#) or interpreter.

23. Always be prepared for the interviewee to answer 'No Comment' or generally refuse to answer your questions. Be prepared to check that the interviewee has understood fully what the caution means, and be prepared to explain it in plain English format to them.

24. When the interview is conducted at a police station, it is essential to consult with the Custody Sergeant to ensure that consideration has been given to the following aspects:

- presence of a legal representative or solicitor – has legal representation been requested by the arrested person?
- is an [appropriate adult](#) required?
- is the suspect fit to be interviewed – is medical opinion required?
- does the suspect require an [interpreter](#), including sign language interpreters?
- are there any custody time limit constraints?

Background data

25. Whatever the type of fraud, it is essential that the investigating officer collates as much background evidence as possible before commencing the Interview Under Caution (IUC). The IUC should be conducted at the earliest possible opportunity.

26. Meticulous care in collecting information from all sources prior to the interview, allows the investigator to be prepared for almost any eventuality that may arise during the course of the interview.

27. Consider utilising a Surveillance Officer to present any surveillance evidence to maximise the impact of the evidence.

28. Fully review the surveillance evidence obtained. If necessary consider a case conference with the Surveillance Officer or Tasking Manager to review the surveillance evidence pack handed off prior to IUC.

29. Consider what will be the viewing platform required to show the surveillance evidence and ensure that this is working prior to the IUC.

30. Departmental records such as the Customer Information System (CIS), the Labour Market System (LMS) and case papers must be examined prior to the IUC for the following:

- details of occasions when changes in circumstances have been declared. This could enable the investigator to establish guilty knowledge
- is there any indication of the claimant declaring the change that is the subject of the investigation? This could indicate that no offence has occurred
- are there any claim forms or other documents which suggest a false declaration and could form the basis of a substantial offence? (Such as Leaflets issued by the department to test 'guilty knowledge'.)
- is the claimant the subject of the Multi-Agency Public Protection Arrangements (MAPPA)

31. Departmental records held in remote storage are often required. These must be obtained via RS Web by an investigator who has access to the system.

32. If it becomes apparent during the preparation stage of the IUC that prosecution is undesirable, for example, the case does not comply with the Departmental Prosecution Policy, the case should be transferred to Compliance for action, see [FRAIMS guidance – Downgrading a Case](#).

33. If the investigator has any suspicion, or is told in good faith, that the person to be interviewed may have or there is an indication of severe mental health issues, the investigator must seek advice from the Team Leader (TL) or Higher Investigations Leader (HIL) before arranging an IUC.

34. If the decision made is that an IUC is appropriate, in the absence of clear evidence to dispel that suspicion, the person should be interviewed in the presence of an appropriate adult.

Multi-Agency Public Protection Arrangement cases

35. The 2003 Criminal Justice Act brought in the Multi-Agency Public Protection Arrangements (MAPPA) to help manage the risk to the public posed by violent and sexual offenders.

36. [Redacted]

37. If during these initial checks or at any time during the course of an investigation it becomes apparent that the subject of the investigation falls under MAPPA arrangements, the investigator must contact the Job Centre Manager (JCM) as soon as possible. The JCM will check the conditions of the MAPPA and take appropriate action if it appears these have been contravened.

38. Cases subject to MAPPA can be progressed on FRAIMS as normal.

39. For further information see the section on [Multi Agency Public Protection Arrangements \(MAPPA\) \(link is external\)](#) within the LMS guide.

40. The JCM will not disclose to the investigator what the restrictions of the MAPPA are but will ask what the investigation is about. **[Redacted]**

41. If it doesn't contravene the MAPPA restrictions the JCM will take no further action.

42. The JCM will advise the investigator what action if any they will take.

43. These claimants are not automatically marked 'UCB' (Unacceptable Customer Behaviour). Any MAPPA claimants considered **[Redacted]**

The interviewee

[Redacted]

Health and Safety

48. Prior to the interview, the investigator must ensure that they have identified whether the claimant:

- is potentially violent
- has been involved in any incidents of unacceptable claimant or customer behaviour, or
- is the subject of an office banning order

This should be done by checking the Staff Protection List (SPL), which should be accessible from the [desktop icon \(link is external\)](#)

49. Where such incident have been identified, it is important that the investigator follows the guidance in [Health and Safety – Office Activities](#).

The law

50. It is essential that the investigator has a thorough knowledge of relevant legislation. They should be clear on the points they need to cover to establish the facts in different types of benefit offences relevant to the investigation.

51. In England and Wales, during the IUC **[Redacted]**

52. In Scotland, investigators must **[Redacted] authorities**

53. In Criminal Investigation cases, it is desirable dependent on CPS resources that, where possible, prior to arrest and interview, all the evidence held is reviewed in consultation with a lawyer from the Crown Prosecution Service (CPS) or Procurator Fiscal (PF) to determine any potential charges.

The location of the interview

54. Wherever possible, interviews should be conducted on official premises. This is to ensure that the investigator has the greatest possible control over the interview. Under exceptional circumstances the investigators can make arrangements for an interview to be conducted at an alternative venue, for example, place of work, or home address.

55. There will be circumstances when the investigators will need to make arrangements for an interview to be conducted at an alternative venue, such as place of work, or home address. An example of this would be in a rural area where it would be impractical to expect the claimant to travel a long distance to official premises.

56. It is unlikely that any IUC will take place outside of a police station in Criminal Investigations cases.

Providing facilities

57. The investigator must ensure that the interviewing facilities are satisfactory including the size of the room to take account of who else may be present. The interviewee may have an appropriate adult, an interpreter and/or a solicitor present.

58. When the interview is to be held on official premises the investigator should:

- arrange private interviewing facilities
- ensure that the interviewing premises are suitable, including:
 - adequate lighting
 - adequate seating
 - adequate heating and ventilation
 - minimal interruptions
 - minimal external noise

- arrange viewing platform to show surveillance footage. Consideration needs to be given on where a DVD or Viewing Platform will be sited. It must be kept in the control of DWP staff and appropriate awareness given to any trailing cables to prevent trip hazards
- give due consideration to any difficulties suffered by the interviewee due to mental or physical disability or illness and provide any required assistance or facilities
- safeguard themselves against potentially violent persons by considering a panic button or some other form of alarm for the interview room

59. The [Home Office guidance on interview rooms](#) provided details of interview room minimum specifications. These are the ideal specifications but are not always possible to achieve and are not binding.

60. The Police And Criminal Evidence (PACE) Act Code of Practice (COP) C 12.4, states that as far as practicable interviews shall take place in rooms that are adequately heated, lit and ventilated.

61. For an interview at a police station the investigator must ensure that the interview room has necessary facilities, for example, there is sufficient seating to suit the needs of the interview. The investigator should also confirm that audio or visual recording machines are in working order.

62. If the suspect is detained in police custody, ensure that enough time is available to interview the suspect before he is released due to the custody time limits. Plan for any meal break the detained person is due.

63. If the suspect is legally represented and the solicitor is available, ensure that the legal representative and the suspect have had sufficient time for disclosure and consultation. This is a legal obligation. This does not apply in Scotland.

Personnel

64. When deciding who should take part in the interview, the following factors should be considered:

- how many investigators will be required?
- is a male or female mix desirable?
- who is the best person to carry out the interview – Are there any underlying factors that would influence this decision?
- if surveillance has been conducted, the surveillance officer where appropriate, will be available to present the evidence
- are any other parties likely to be interested in the interview?
- will the attendance of an appropriate adult or interpreter be necessary?
- is a Solicitor required?
- The number of participants/observers to be present as we need to avoid an oppressive environment?

65. In police arrest cases, a police officer may attend the interview particularly if required to administer any special warnings under sections 36 and 37 of the Criminal Justice and Public Order Act 1994, see PACE COP C, paragraph 10.10.

66. In the event that police resources do not allow for an officer to be present, the investigator should conduct the interview, fully in accordance with PACE, under the guidance of the Custody Sergeant, but break at the appropriate time to allow for a police presence should any special warnings be required, please refer to para 62 above. This does not apply in Scotland.

Administrative arrangements

67. It is important that investigators are prepared in advance of any interview they are expected to undertake. The officers concerned will need adequate time to familiarise themselves with the documentation of the investigation and to discuss and agree how they plan to conduct the interview. This is generally known as the pre-interview discussion.

68. The following administrative arrangements must also be considered:

- is the interview location available at the required time and for the time needed?

- have all parties been given reasonable notice to attend?
- is the witness or interviewee available at the required time?
- are all forms required available in sufficient quantity?
- is the interview room laid out to facilitate the interview?
- have arrangements been made to prevent interruptions?
- are there sufficient audios and seals for the interview?
- is the viewing platform for surveillance footage functioning?
- are there any compatibility issues with the DVD format?
- is a complete current copy of the Codes of Practice available? Not appropriate in Scotland
- is the audio machine working properly?
- is the suspect fit to be interviewed?

Aims and objectives

69. The aims and objectives of the interview are:

- to identify the suspect
- to establish the facts
- to identify possible offences
- to gather sufficient evidence to prove or disprove an allegation

70. In order to achieve the aims and objectives the interviewer should prepare a plan to:

- identify points to prove
- ensure that the interview is conducted in accordance with PACE in England and Wales, or meets the “test of fairness” in Scotland
- establish a prima facie case against the suspect
- establish guilty action, knowledge and intent

71. The step-by-step approach of structuring the interview in advance will ensure that no salient points are overlooked. Remember where appropriate attempt to establish guilty action, knowledge and intent.

72. The investigator must be aware that aims and objectives will be influenced by the interview itself and be prepared to change direction from original plan if necessary.

73. The investigator must ensure that the following documents are available and in the correct order so that the interview runs smoothly:

- the appropriate Interview Under Caution (IUC) aide memoire
- all the documents that are to be shown during the IUC
- intelligence gathered including previous information where appropriate
- blank copies of the NPA01 (England and Wales only)

74. Where the translation of a document in to English from another language is required prior to undertaking an IUC, follow instructions on the [Foreign Language Translation \(link is external\)](#) page. Consideration should given as to whether a document may be required for Court purposes, as the process for obtaining such translations differs from translations required for administrative purposes.

75. Two or more people suspected of committing criminal offences should never be interviewed together during an IUC. In living together cases you should never interview one spouse or partner whilst the other spouse or partner is present in the same interview.

Using false documents as the basis of the offence

76. Whenever possible investigators should attempt to use false documents such as claim forms or signing coupons (ES24s) as a basis for the offence.

77. The investigators must show these documents to the claimant during the Interview Under Caution (IUC) to confirm that the details refer to them. Whenever possible these documents should be originals but there will be occasions when only copies are available.

Failure to notify a change of circumstances promptly

78. Section 16 of the Social Security Fraud Act (SSFA) 2001 introduced additional offences of failing to notify a change of circumstances promptly, to cover those circumstances where documentary evidence does not exist.

79. These offences are to be used where:

- there are no documents available on which to base a charge, for example, because there has been no review of the claim over the period of time the offences are committed
- the claimant has been paid benefit by direct payment into a bank account
- the case was not false from the outset

80. In cases, which are false from the outset, then the offence of failure to promptly notify a change of circumstances will not be appropriate as the claim has always been false.

81. This is providing that the whole of the overpayment occurred on or after 18 October 2001 which is the date this legislation became effective.

Points to establish

82. [Redacted]

Planning the interview

When an appointment is to be made to interview someone under caution, whether this will involve visiting them in their home or calling them into the office, the person must be told the reason for the appointment.

Checks must be made with Customer Information System (CIS) and other legacy systems to confirm that the address where the letters are being issued is indeed the claimant's current address. For Universal Credit Full Service claimants the information held on the build will be the most up to date.

The interviewee must be given reasonable advanced notice in writing of the appointment, with the standard being 10 to 15 working days before the IUC date.

Case specific issues that the investigator is aware of may make it appropriate to give a different notice period. If this applies then the reasons must be noted into FRAIMs.

You must issue the correct Interview Under Caution (IUC) letter and associated forms: [CI1](#), [CI1W.doc](#), [CI1S.doc](#) and record this on FRAIMs. For Universal Credit Full Service claimants the [CI1.doc](#), [CI1W](#), [CI1S](#) UCFS letter must be uploaded to the claimant journal. Investigators should email a copy of the completed letter to RIT Admin for uploading.

If the interviewee requests an interview at an earlier or later time than notified, and that request can be accommodated, this must be recorded on FRAIMs. A further [CI1.doc](#) is not required in those circumstances, but an explanatory note must be entered into FRAIMs. Phone call reminders to attend may be considered at the investigators discretion, giving due regard to the need to comply with PACE. If this action is taken, it must be recorded into FRAIMs.

Pre IUC Phone calls (up to 3 attempts as per FRAIMs instructions) can be made to confirm attendance and/or to consider [Appropriate Adult](#) needs. These calls are to be considered by the investigating officer giving due regard to the need to comply with PACE. If this action is taken, responses negative or positive must be recorded in the officers N1 note book as contemporaneous notes, regarding discussions. [Actions must be recorded into FRAIMs](#). In cases where the need for an Appropriate Adult has been identified, check if the suspect is able to make these arrangements, and if not then make them through your local agreed options. Universal Credit Full Service claimants should update their journal with confirmation of their attendance and if they are to be accompanied. If the claimant has not confirmed their attendance in their journal then Pre IUC phone calls can be completed.

Note: Failing to issue the correct IUC letter and record on FRAIMs can mean:

- non-compliance with legal requirements informing the claimant of their rights and the process
- potential for claimant to complain leading to delays in the process
- you can prevent the use of sanctions
- potential for costly legal challenge

- technical legal challenge in court resulting in case being thrown out
- potential reputational damage to DWP

General information about the IUC is included within the letter, therefore there is no longer a requirement to issue the IUC leaflet; CI1 AL, CI1 ALS

No alterations should be made as documents have been legally approved. Correspondence must be issued by first class post and include a first class pre-paid reply envelope.

The details of the IUC appointment must be recorded on FRAIMS to provide the audit trail that all attempts to interview the claimant have taken place, see [FRAIMS guidance – Arranging the interview](#).

A BF must be set prior to the interview to review whether the customer has responded to the CI1 invite, and to allow time to take the appropriate actions.

In Her Majesty's Revenue and Customs (HMRC) joint working cases, appropriate appointment letters must be used. See [Joint Working with HMRC - Interviews Under Caution](#).

Fitness to be interviewed

If a claimant, or their defence solicitor, informs the department that they are not fit to be interviewed, it should not be taken on face value. The onus is on the claimant to provide medical evidence which proves that the claimant is unfit to be interviewed. A claimant cannot avoid being interviewed in relation to a suspected crime by using minor ailments as a get out.

It is the functional or cognitive ability of the suspect to understand the questions being put to him which is important, not simply his medical condition, [Police and Criminal Evidence \(PACE\) Act 1984 Code of Practice \(Code C Annex G paragraph 4\)](#) ([link is external](#)) refers.

The investigator should arrange a revised interview date and send the claimant the [CI1 FIT1](#) ([link is external](#)) ([link is external](#)) / [CI1 FIT1W](#) ([link is external](#)). Universal Credit Full Service claimants should have the letter uploaded to the claimant journal. Investigators will be required to send a completed copy of the letter to RIT Admin for upload.

The claimant should be asked to provide written confirmation from a health care professional, the claimant's General Practitioner (GP), or consultant, etcetera, should they be considered not fit to be interviewed.

Record the issue of the letter by creating a new interview activity on FRAIMS, see [FRAIMS guidance – Arranging the interview](#).

If initial contact is made by the claimant's solicitor, the [CI1 FIT1](#) ([link is external](#)) should be issued under a covering letter, [CI1 FIT Sol](#) ([link is external](#)) ([link is external](#)) / [CI1 FIT SolW](#) ([link is external](#)), to them rather than the claimant. It will be the responsibility of the solicitor to forward the [CI1 FIT1](#) ([link is external](#)) to their client.

In England and Wales, if medical evidence is provided to support the claim to being unfit to be interviewed, the investigator or Team Leader should decide if the suspect is fit for interview, taking into account the suspect's functional or cognitive ability.

The Crown Prosecution Service (CPS) will not advise whether a suspect can be interviewed in these circumstances.

The claimant or defence solicitor may write back and still contend that they are unfit to attend an interview but not provide any supporting medical evidence. In such cases or where the investigator or Team Leader has decided that an interview is not appropriate, or the suspect has failed to attend an interview on unsubstantiated health grounds, advice from CPS may be sought.

CPS will consider all the evidence, including any medical evidence or information provided and decide whether the case meets the Code for Crown Prosecutors (CCP) test and if not, how it could be strengthened. CPS will not comment on whether a suspect is fit to be interviewed.

If after enquiries the investigator is not satisfied that the claimant is unfit to attend an Interview Under Caution (IUC), a further interview date should be arranged and the [CI1 FIT2](#) ([link is external](#)) ([link is external](#)) / [CI1 FIT2W](#) ([link is external](#)) sent to the claimant. Universal Credit

Full Service claimants should have the letter uploaded to the claimant journal. Investigators will be required to send a completed copy of the letter to RIT Admin for upload. This letter advises that the matter may be referred to the Police for arrest action unless the claimant voluntarily attends the IUC. For more information, see [Arrest \(link is external\)](#). Following Police arrest, if it transpires that the claimant has health issues, the Police will arrange for a Forensic Medical Examiner (FME) to assess the claimant in order to determine whether the claimant is fit to be interviewed.

Government funded Trusts and Funds

Payments received because of a Government funded Trust or Fund do not have to be declared and may be disregarded for benefit purposes. This relates to payments made from the following Trusts or Funds:

- the MacFarlane Trusts
- the Fund
- the Eileen Trust
- the Skipton Fund
- the London Bombings Relief Charitable Fund
- MFET Limited
- Caxton Foundation

Such payments may be identifiable at the evidence gathering stage of an investigation. However, if the source of the capital or payment is not identifiable, the claimant may be invited to attend an IUC.

Payment details provided or obtained

If the claimant is in receipt of a Government funded Trust or Fund and is invited to an IUC, they may contact the appropriate organisation. The Trust or Fund will obtain the claimant's authority to disclose information and will notify the department of any such payments.

[Redacted] Operational Intelligence Unit (OIU) will act as a post box for the receipt of payment details from:

- the MacFarlane Trusts
- the Eileen Trust
- the Skipton Fund
- MFET Limited
- Caxton Foundation

Note: MacFarlane Trust can only supply information from 2004 onwards.

Payment details will be entered on to a consent form and sent to a designated inbox at **[Redacted]** OIU prior to being forwarded electronically to the relevant investigator for action. It will not be the responsibility of the OIU to check completion of any consent form provided.

On receipt of payment details provided by the Trust or Fund, a decision will be required from the Decision Maker (DM) and the investigator must refer to the DM for advice or a decision as to whether the payment should be disregarded for benefit purposes. See [Decision Makers Guide \(DMG\) Volume 5 Chapter 29 \(link is external\)](#), paragraphs 29418 et seq, for further information regarding payments and disregards. Alternatively, they should seek advice from a Decision Maker.

Where applicable, the Decision Maker (DM) must note the claim or Jobseekers Allowance Payment System or Income Support Computer System (JSAPS or ISCS) notepad that 'capital of X amount at (date) is to be disregarded.

Payment details not provided

If the claimant attends the IUC without contacting the appropriate organisation, the investigator must be sensitive in their questioning where capital is identified as a result of a Trust or Fund named above. The IUC must be terminated where payment details are required to establish any payment disregard.

All payment enquiries should be directed by e-mail to the Single Point Of Contact (SPOC):

- [Redacted]
- Counter Fraud and Compliance Directorate
- [Redacted]. (40 * Personal data (absolute exemption in relation only to information that is the personal data of the applicant))

The Benefit Delivery Specialist Operations Team will obtain information about payments from other organisations if necessary.

Further information on these organisations, their purpose and the rules surrounding the disregards that operate in relation to payments can be found in [Jobseekers Allowance Procedural Guidance – Capital \(link is external\)](#).

Requirement to attend IUC or Cancellation of IUC

The claimant must be advised as to whether an IUC is still applicable. If so, the claimant must be sent a [CI1 TF \(link is external\)](#) / [CI1 TFW \(link is external\)](#), Requirement to Attend IUC letter. Where no further action is required the claimant must be sent a [CI1 TFC \(link is external\)](#) / [CI1 TFCW \(link is external\)](#), Cancellation of IUC letter, and the activity set to **Done**, see [FRAIMS guidance – Claimant fails to attend the interview](#). Universal Credit Full Service claimants should have the letter uploaded to the claimant journal. Investigators will be required to send a completed copy of the letter to RIT Admin for upload.

If the case is not suitable for submission for prosecution, case closure action should be considered.

Failure to attend the Interview Under Caution

If the claimant refuses or fails to attend the office for an IUC, full details must be recorded on FRAIMS.

England and Wales

If the claimant fails to respond to the IUC appointment letter or fails to give an acceptable reason for non-attendance, the following action must be taken where appropriate. If benefit is in payment, the case must be passed to the Team Leader (TL) with a mandatory [RM7.doc](#) / Sensitive information and a record on [FRAIMS](#) of all relevant actions taken in seeking to encourage attendance at an IUC prior to a request for suspension via a Decision Maker. If the claimant makes contact to report circumstances that warrant a fresh IUC such as non-attendance due to last minute child care issues or domestic emergency,

Reschedule prior to IUC: Decide an appropriate date and time for the rescheduled interview and if required, confirm the new appointment details in writing to the claimant. If a further CI1 is not required in your case, an explanatory note must be entered into FRAIMS.

Reschedule after IUC FTA: If the claimant makes contact to report circumstances that warrant a fresh IUC such as non-attendance due to last minute child care issues or domestic emergency, then a suspension request is not appropriate for FTA (although evidence may have indicated appropriate suspension action prior to this IUC) and a CI1 FTA must be issued for a new IUC by the investigator. Follow up action is not treated as an FTA case.

Where FTA IUC action is taken, the case must be recorded on FRAIMS and passed to the TL to consider the following:

1. if the case is one of failure to declare work and the Team Leader (TL) or Higher Investigations Leader (HIL) is satisfied there is sufficient evidence, obtain a decision before submitting the case to the Digital Case Management Unit (DCMU) or Crown Prosecution Service (CPS) for consideration for prosecution. You must issue the correct [CI17A \(link is external\)](#) / [CI17AW \(link is external\)](#) letter to the person being considered for prosecution and record this on FRAIMS. Universal Credit Full Service claimants should have the letter uploaded to the claimant journal. Investigators will be required to send a completed copy of the letter to RIT Admin for upload
2. in other cases, the TL or HIL should consider whether a referral to the Police to consider an arrest is appropriate, see [Arrest - When can an arrest be considered](#)
3. if the case is not suitable for submission for prosecution, case closure action should be considered

Scotland

If the claimant fails to respond to the IUC appointment letter or fails to give an acceptable reason for non-attendance, if benefit is in payment, request suspension via a Decision Maker.

In Scotland, for a successful prosecution to be obtained, the claimant's identity must be confirmed. Where the claimant's identity cannot be confirmed from case documentation or previous contact, a second letter, [CI2S \(link is external\)](#), may be hand delivered with the sole intention of identifying the claimant from the visit.

On establishing the claimant's identity, the following action must also be taken in to consideration:

- if the case is one of failure to declare work and the TL or HIL is satisfied there is sufficient evidence, submit the case to the Procurator Fiscal for consideration for prosecution. Issue the appropriate [CI17AS \(link is external\)](#) series form to the person being considered for prosecution. Universal Credit Full Service claimants should have the letter uploaded to the claimant journal. Investigators will be required to send a completed copy of the letter to RIT Admin for upload
- in other cases, the TL or HIL should consider whether a referral to the Police to consider an arrest is appropriate, see [Arrest - When can an arrest be considered \(link is external\)](#)
- if the case is not suitable for submission for prosecution, case closure action should be considered

Cost of attending the interview

Individuals who have to make a special journey to attend an interview can claim travel expenses.

Travel expenses can also be paid to Appropriate Adults if they are required to accompany a claimant at the interview. For information on when it is necessary for an appropriate adult to attend an interview under caution, see [interviewing people at risk](#) in this guide.

If the interviewee is a Jobcentre Plus claimant, it may be more cost-effective to make the appointment for the Interview Under Caution on a day and time when they would normally call at the office to sign-on.

For further information regarding costs to attend interview, see [Reimbursement of customers' travelling expenses \(link is external\)](#) or [Claims for travelling expenses for members of the public \(link is external\)](#).

These guidelines do not apply in Scotland

The basic requirements for the interview room are as follows:

- no smaller than seven metres square and preferably not completely square
- an illumination level of 200 lux at 750mm above floor height
- ideally there should be no windows. If this is not the case windows should be opaque and double glazed, minimum thickness giving an airspace of between 30mm and 40mm using glass 6 - 10mm thick
- ideally have a solid 50mm thick proprietary sound insulated door. If the location is quiet, soundproofing with draught proofing will be sufficient
- sound proofing panels fixed at a maximum height of 1.2 meters above floor level and extending to the full height of the room.

The interview room must ideally be of solid brick construction. If not possible, a sealed surface with dry acoustic lining should be sufficient. Care should be taken over the location of conduit, which must not be placed back-to-back.

02 Conducting the Interview Under Caution

Identification

Investigators

1. On official premises, the investigator conducting the interview must introduce themselves with their name badge clearly visible. For interviews conducted off official premises, investigators must produce their identity card.

Claimants

2. Although the interviewee is requested to bring in the Interview Under Caution (IUC) attendance letter [CI1 \(link is external\)](#)/[CI1JW \(link is external\)](#)/[CI1S \(link is external\)](#)/[CI1JW\(S\) \(link is external\)](#)/[CI1W \(link is external\)](#)/[CI1JW\(W\) \(link is external\)](#), it is essential to confirm the identity of the interviewee prior to commencing the IUC. Universal Credit Full Service claimants can show the letter through their journal.

3. Where applicable, crosscheck the most up to date personal information held on departmental records with the claimant to confirm their identity. Use a selection of questions to corroborate information held by the department with the claimant. Questions below are intended only as a guide and should not be pertinent to the interview:

- surname
- forenames
- previous names
- date of birth
- current address
- previous addresses
- any other names/alias/known as
- dependant details
- employment history
- claim details, such as, claim date, how paid, benefits in payment, amount, Post Office collected from and so on

This list is not exhaustive.

4. To confirm identity, ask the interviewee to produce some form of identification, for example, a driving licence. This must not be used in isolation.

5. When the interviewee attends the interview, they should be given an explanation as to why they have been invited in for an IUC. Care must be taken at this initial stage not to stray into asking questions and soliciting answers prior to the caution being given, otherwise this could constitute a breach of the Police and Criminal Evidence Act (PACE) 1984 or fail the 'Test of Fairness' (Scotland).

6. Where there is more than one person present at the interview, see [Other persons present at the interview](#).

Identity in doubt

[Redacted]

12. For more information, see [Identity Fraud](#)

Other persons present at the interview

More than one officer present at the interview

13. When more than one officer from the Department for Work and Pensions (DWP), or in the case of a joint investigation, one officer from DWP and one from the Local Authority (LA), are present at the interview the lead investigator must explain the role of the second officer to the interviewee.

Interviewee accompanied by a non-legal representative or friend

14. The role of the non-legal representative or friend is to observe and provide moral support to the interviewee. The non-legal representative or friend is not there to answer questions or give advice, legal or otherwise, to the interviewee.

15. If the non-legal representative or friend disrupts the interview in anyway the investigator should remind them of their role. If they continue to be disruptive, they should be asked to

leave the Interview Under Caution (IUC). If the non-legal representative or friend refuses to leave the IUC, the IUC should be suspended and resumed later in the absence of the interviewee's non-legal representative or friend.

16. If the claimant is accompanied to the Interview Under Caution (IUC) by a 'McKenzie friend', the interviewing officer should treat them in the same way as any other non-legal representative or friend

Obtaining legal advice

17. In cases where the interviews are to be held at the local office, the interviewee must be informed that they may seek independent legal advice by consulting and communicating privately with a solicitor, whether in person, in writing or by telephone at any time. They should then be asked the question "Do you wish to obtain legal advice?"

18. If the reply is "No" they should then be asked the question "Is there any reason why you do not wish to obtain legal advice?" They should be reminded that if they wish to seek legal advice at any time during this interview, say so and the audio recording and the interview suspending to enable them to do so.

Definition of a solicitor

19. A solicitor who holds a current practicing certificate or an accredited or probationary representative included on the register of representatives maintained by the Legal Services Commission, Police And Criminal Evidence Act Code of Practice C 6.12.

Role of the legal advisor

20. The solicitor's only role is to protect and advance the legal rights of their client. The solicitor may:

- give legal advice
- intervene in order to seek clarification
- challenge an improper question or the manner in which it is put
- advise the interviewee not to reply to certain questions

21. The solicitor may only be required to leave the interview if their conduct is such that the interviewer is unable to properly put questions to the interviewee.

22. Examples of unacceptable conduct by a solicitor could include answering questions on the interviewee's behalf or providing written replies, not to be confused with a full written statement on behalf of the interviewee, for the interviewee to quote.

23. An officer who takes the decision to exclude a solicitor from the Interview Under Caution (IUC) must be in a position to satisfy the Court that the decision was properly made.

24. Details of the reasons must be recorded on a word document and attached to (Fraud and Error Inventory Management System (FRAIMS)).

25. If the solicitor is excluded from the IUC, the interviewee should be asked whether they wish to obtain independent legal advice from a different solicitor.

Allegations of solicitor misconduct

26. Details of the legal opinion sought must be recorded on FRAIMS, see [FRAIMS guidance – Obtaining legal advice](#)
England and Wales

27. Allegations of solicitor misconduct must be reported to the Team Leader or Higher Investigations Leader who must seek advice from the Crown Prosecution Service on whether the conduct complained of should be reported to the Law Society. Further guidance can be found under Police And Criminal Evidence Act (PACE) Code of Practice (COP) C 6.9 and the guidance notes 6D – 6F.

28. In police arrest cases, the interview should be terminated and the custody officer informed. The removal of an obstructive legal representative from an interview is a decision that can only be made by a police officer, not below the rank of Inspector, and must be in accordance with PACE COP C 6.9.

Scotland

29. Where the interview takes place in the local office, the Team Leader or Higher Investigations Leader should refer any allegation of misconduct by a solicitor to the Central Prosecution Team (CPT), who will seek advice from the Office of the Solicitor to the Advocate General (OSAG), if necessary.

Disclosure prior to the interview - England and Wales only

30. In every case where an Interview Under Caution (IUC) is to take place, the interviewing officer must, before commencing the IUC, inform the interviewee of the offences they are suspected of, and the grounds and reasons for the suspicion.

31. The interviewee must also be advised that this is a requirement in accordance with the Police and Criminal Evidence Act (PACE) [Code C \(link is external\)](#) paragraphs 3.1(b) and 11.1A. This obligation applies regardless of whether the interviewee is legally represented.

32. There is no obligation on an investigator to disclose the whole of the evidence to the interviewee before the IUC. Investigators have discretion in relation to what can be disclosed at this stage and whilst sufficient information must be given so that the suspect can understand the nature of any offences, it does not require disclosure of details, at a time, which may prejudice the investigation.

33. Note: 11ZA of PACE Code C, confirms that, what amounts to sufficient information depends on the circumstances of the case, but it should normally include, as a minimum, a description of the facts relating to the suspected offence that are known to the officer, including the time and place in question.

34. The investigator provides this information to the interviewee by handing them a copy of [MG6A \(link is external\)](#) before the IUC and allows the interviewee sufficient time to read the written summary. The investigator must check that the interviewee understands the allegations and that they wish to continue with the interview.

35. Once the IUC begins and the Caution given, the investigator must confirm with the interviewee what information has been provided and seek their confirmation of receipt and that they understand the information provided.

36. If the interviewee wishes to obtain legal advice before proceeding with the interview, the investigator must take action as outlined in [Suspended Interviews](#).

37. It is not unusual for an interviewee's legal advisor to seek pre-interview disclosure before the commencement of the IUC. Where requested, the investigator hands a short written summary of facts to the legal advisor, as well as a copy to the interviewee, so that the legal advisor can usefully advise the interviewee.

38. This is necessary as the obligation under PACE is only discharged when the interviewee is provided with the summary of facts even if their legal advisor has also been provided with a summary.

39. Any failure to provide the legal advisor with any pre-interview disclosure could result in the legal advisor advising the interviewee to make a no comment interview. A no comment interview could be justified on this basis.

40. Occasionally requests for pre-interview disclosure are made before the IUC takes place. In these cases, the investigating officer may write a letter to the interviewee's legal advisor setting out details of the suspected offences, together with a summary of facts giving some evidential information, which sets out the nature of the case against the interviewee.

Investigators can also include in the letter a general description of the issues that they intend to cover during the IUC.

41. A copy of the letter to the legal advisor must also be included so that this can be given to the interviewee. This is necessary as the obligation under PACE is only discharged when the interviewee is provided with the summary of facts even if their legal advisor has also been provided with a summary.

42. The investigating officer must document any items given to the interviewee as part of the pre-interview disclosure in their official notebook (N1).

43. A summary of what information has been provided must be recorded on FRAIMS including the page number of the official notebook, see [FRAIMS guidance – Claimant attends the interview](#).

44. Consideration must be given to providing the legal advisor with a written copy of any disclosure given, which must be exhibited by the investigator should any challenge be made at interview as to what has or has not been disclosed.

Audio-recorded interviews

45. Interviews Under Caution (IUCs) must be audio recorded where audio recording facilities are available, see Police And Criminal Evidence Act Code Of Practice (PACE COP) E 3.3, unless the interviewee refuses to be interviewed on Compact Disc (CD), see PACE COP E 4.8. Audio and visually recorded IUCs must comply with Codes E and F of the COP.

46. Before commencing the interview, the interviewing officer should be aware of and consider using the appropriate [Aide Memoire](#) as a script for the interview.

47. If issues arise with the audio recording machine, take action as outlined in [Engie Helpdesk procedures](#).

48. A decision not to audio record an IUC may be subject to comment in court and could lead to the investigating officer being asked to justify that decision.

49. Interviewees can object to the interview being audio recorded. In such cases the interviewee's objections should be audio recorded before the recording equipment is switched off, see PACE COP E 4.8.

50. The interviewer should resume the IUC by making a contemporaneous record of the IUC on the [CI9 \(link is external\)/CI9S \(link is external\)/CI19W \(link is external\)](#).

51. IUC audio recorders must meet the specification laid down in PACE. Investigators must be familiar with the requirements of the Code E of the COP on audio recorded interviewing before conducting an interview.

52. It is important that the audio recording procedure be explained to the interviewee. In England and Wales, the investigator should explain, in broad terms, the reason for the interview and that it is a requirement of the COP that the interview should be audio recorded. In Scotland it is good practice to audio record the interview but not a legal requirement.

53. The interviewee should be asked to switch off their mobile telephone unless they strongly object because they are expecting an important call, such as from their legal advisor. The following actions must be completed in the presence of the interviewee:

- new Compact Disc (CD) must be unsealed
- the investigator must load the audio recorder with the new CDs
- the audio recording machine should be set to record

54. These actions must be completed without delay before the interview is commenced, see PACE COP E 4.1.

55. Once the audio recorder is switched on to record the interview, the investigator shall:

- say that the interview is being audio recorded
- say the date, time, place and location of the interview
- say their name and job title

- identify all other persons present and explain the role of other officers present from the Department for Work and Pensions (DWP), Local Authorities and/or Other Government Departments
- inform the interviewee that they will be given a notice detailing what will happen to the audios, not applicable in Scotland
- confirm any discussion prior to the interview being recorded
- confirm that the suspect:
 - has been provided with the written summary of facts
 - understands the allegation against him
 - wants to continue with the interview
- say that recording will continue until the conclusion of the interview

56. See [08 Aide memoires for Interviews Under Caution](#) for more details.

The Caution

57. The interviewee must be cautioned before any questioning takes place.

58. Police And Criminal Evidence Act (PACE) requires that where Welsh is the interviewee's preferred language, the caution may be offered in Welsh. Before offering the caution, the investigator should ask the interviewee their preferred language and the caution may be given to them in Welsh.

59. If in English, the caution should be given as follows:

"You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

60. If in Welsh, the caution should be given in the following terms:

"Does dim rhaid I chi ddweud dim byd. Ond gall niweidio eich amddiffyniad os na fyddwch chi'n son, wrth gael eich holi, am rywbeth y byddwch chi'n dibynnu arno nes ymlaen yn y Llys. Gall unrhyw beth yr ydych yn ei ddweud gael ei roi fel tystiolaeth"

61. In Scotland the caution is as follows:

"You do not have to say anything unless you wish to do so, however anything you say will be taken down in writing, audio or video recorded, where appropriate, and may be used in evidence"

62. Minor deviations do not constitute a breach of this requirement provided that the sense of the caution is preserved.

63. If it appears that the interviewee does not understand the caution, the investigating officers should explain it in their own words, PACE Code Of Practice C 10D refers.

Suggested explanation of the caution - England and Wales

64. You are being interviewed today because you are suspected of having committed criminal offences. This interview will provide you with an opportunity to explain certain facts and to give answers and reasons for your actions. However, in law, you retain a right of silence and you do not have to say anything. If you do not say anything now and the case goes to court and you say something in court, which you could have said now, the court may wonder why you did not mention these facts or reasons during this interview. This could harm your defence at court.

The interviewee's rights

65. Police And Criminal Evidence Act (PACE) requires that the interviewee's rights are explained at the start and apply throughout the interview which are:

- the right to remain silent
- the right to leave at any time, if not under police arrest
- the right to legal advice or to consult a legal advisor
- the right to free legal advice or to consult a legal advisor if under arrest and the interview takes place at a police station
- in England and Wales only, the right to consult the PACE Code of Practice

66. If the Interview Under Caution (IUC) is being conducted at a place other than the benefit office or a police station, for example the interviewee's home or workplace, the investigator will only be able to remain on these premises for as long as the owner or occupier of the premises permits. If the investigator is asked to leave the premises, they should do so with immediate effect and irrespective of whether the IUC has been concluded.

67. In cases where the IUC has not been concluded, the investigator should arrange for the IUC to be resumed on a date and at a venue as soon as is reasonably practicable.

68. In England and Wales, the interviewee must be given the [CI10 \(link is external\)](#)/[CI10W \(link is external\)](#) or equivalent, and should be asked to sign a record to confirm their understanding of those rights.

69. The investigator should also ensure that the interviewee can hear what is being said, can read, speak and understand English.

During the interview

70. At all times, during an interview, the investigator must ensure that the interviewee is:

- treated fairly, courteously and without bias or prejudice
- allowed to say what they want, to put their point of view in their own time and their own words without unnecessary interruption
- allowed to ask any questions they wish
- allowed to receive honest and open answers to any question they put, providing confidential information or information that might prejudice criminal proceedings is not disclosed
- not offered any kind of bargain

71. The investigator must keep control of the interview and not allow the interviewee to take over by asking irrelevant questions.

72. An investigator may need to ask the interviewee to clarify their answers from time to time.

73. When putting questions to the interviewee, the investigator must use plain language and avoid the use of jargon.

74. If it appears during the interview that the interviewee is incapable of understanding the questions the investigator should consider:

- re-phrasing the questions
- asking the interviewee if they wish to have someone to assist them during the interview who could be an appropriate adult or solicitor. If they do the interview must be suspended to enable the necessary arrangements to be made

75. If the investigator is of the opinion that the interviewee may be mentally vulnerable but there is no documentary evidence to confirm this, the interviewee must be asked if they would like to have someone with them at the interview, such as a parent or friend, if they do the investigator must take the following action:

- suspend the interview immediately
- ask the interviewee if they know of a relative or friend who could act as an appropriate adult at the reconvened interview
- arrange for a social worker or someone from a voluntary organisation to act as an appropriate adult if the interviewee does not know of anyone who can act in this role

76. If the interviewee insists that they do not require the attendance of an appropriate adult and there is no documentary evidence to confirm that they meet the criteria the investigator must take following action:

- continue with the interview unless there are reasons to suspend it such as; the interviewee is obviously too distressed to continue or appears to be unable to understand or answer the questions put to them
- note the interviewee's response in their N1 official notebook
- give a summary, including the page number of the N1, on FRAIMS, see [FRAIMS guidance – Claimant attends the interview](#). This enables an audit trail of activities available to the Team Leader or Higher Investigations Leader in case the investigator is absent for any reason.
- consult with the Team Leader or Higher Investigations Leader to decide on the next course of action
- obtain advice from the Crown Prosecution Service (CPS) if necessary

77. The investigator must then consult with the Team Leader or Higher Investigations Leader who decides on the next course of action.

78. Two officers must be present at all Interviews Under Caution in Scotland.

Interruptions

79. If someone enters or leaves the interview room, identify the person and record what happened.

Evidence presented by interviewee

80. Records and documents presented by the interviewee (such as bank statements and Occupational Pension payments) must be confirmed under caution by them as being accepted for use as evidence in a potential prosecution. If the investigator is concerned about the authenticity of the statements, then it is still open to the investigator to seek clarification (such as from the bank). Otherwise there is no need for a statement from the originator of that document. (This is under provision within SSAA 1992). Where there are doubts regarding the content/authenticity of information supplied by the customer, the identified provider must then be contacted under the relevant DWP powers - in the normal way as per Instructions- to request the information and at the same time request MG11 and related documents. On receipt action as per instructions (bank statements not to be exhibited)

Where the record is a bank statement, the investigator will exhibit the schedule of assets as KEY, and include the bank statement supplied by the interviewee as Non-Key by the FI.

A note to advocate in the MG6 part 9, must clearly identify the item, explain the receipt and clarify the lack of a linked specific MG11. The MG5 summary report and investigators own MG11 statement will outline how the investigator received and processed the record or document from the interviewee, plus confirm its availability for the reviewing lawyer (redaction if necessary been considered if requested).

Where evidential records or documents are received outside of the Interview Under Caution, every effort must be made to have that done at an appointment where a contemporaneous record can be made and signed by the person. The process above regarding the exhibiting of the evidence should then be followed regarding the FI exhibiting the information in the correct format and all MG documents noted accordingly.

Otherwise normal requirements of evidence statements must be considered.

Establishing Guilty Knowledge

80. Investigators should ensure that 'guilty knowledge' is covered in the Interview Under Caution (IUC). It should be shown that the interviewee knew at the time of the suspected offence:

- that the change in circumstances **would** affect their benefit
- who they should inform of the change and how they should do this and
- what information they should have declared.

Change of circumstances information leaflets can be shown to support establishing Guilty knowledge. Ensure the correct version that customer would have received during claim or

offence period is exhibited as Key. In the first instance check OPSTRAT screen 570 to identify the dates the 'Notes sheets' for the particular benefit were issued. Where a rebuttal applies, the 570 screen print must be included as evidence in support of the relevant claim form/leaflet being issued. Leaflets 2018, [Leaflets to 2011 \(link is external\)](#). [Working Age Forms and Leaflets \(link is external\)](#). [Pensions Age Forms and Leaflets \(link is external\)](#). Other older documents required that are not available via the link, will have to be requested from Zanzibar. (Team/district to make own arrangements for holding E samples for access locally)

Silent interviews

81. Sections 34, 36 and 37 of the Criminal Justice and Public Order Act 1994 as amended, describe the conditions under which adverse inferences may be drawn from a person's failure or refusal to say anything about their involvement in the offence when interviewed, after being charged or informed they may be prosecuted.

82. In England and Wales, if the interviewee exercises their right to silence they should be advised of the potential consequences. It is important that the investigator is not deterred and still asks all the relevant questions and puts the allegation to the interviewee if appropriate.

83. For more information, see [Aide-memoire for silent interviews](#).

84. In Scotland, the interviewee has the right to remain silent and the Court is not allowed to draw any inference from him doing so.

Significant statements

85. At the commencement of the interview, and after first cautioning the interviewee, the investigator should put to the interviewee any significant statements or silences which occurred in the presence of the investigator prior to the Interview Under Caution (IUC). The interviewee should be asked whether they confirm or deny the earlier statements or silences and whether they wish to add anything.

86. A significant statement is one, which appears capable of being used in evidence against the suspect, in particular a direct admission of guilt.

87. If the interviewee makes any significant statement, see Police And Criminal Evidence Act (PACE) Code Of Practice (COP) C 11.4A and COP E 4.6, prior to the caution, a written record must be made immediately in the official notebook (N1) and be referred to during the interview.

88. At the IUC these should be read back to the interviewee and asked to confirm what was said, if the statement in the official notebook has not been signed by the interviewee you should ask for it to be signed at that stage.

89. A summary, including the page number within the official notebook, of the written record must be recorded on Fraud Referral an Intervention Management System (FRAIMS), see [FRAIMS guidance – Claimant attends the interview](#).

90. This then enables an audit trail of activities available to the Team Leader or Higher Investigations Leader in case the investigator is absent for any reason.

Example

An interviewee is met to be taken to the interview room and states, 'I know what this is about, you've found out that I'm working.' This is a significant statement, which must be referred to at the start of the interview. Immediately after the caution, the investigator must remind the interviewee of what they said on the way to the interview room and ask them to confirm or deny it.

Significant statements also occur at house searches either prior to or after arrest. A record of these can be made in the Premises search book or the investigators official notebook. A summary, including the page number within the official notebook, of the written record must be recorded on FRAIMS.

Rebuttal statements

91. If the interviewee does not admit the offence, for reasons such as:

[Redacted]

92. The investigator must challenge any reasons for not admitting the offence such as:

[Redacted]

93. If the interviewee still denies the fraud, it will be necessary to suspend the interview so that the investigator can carry out a detailed search of computer records and claim documents to find out if there is any evidence to support the person's argument. If there is, it may be necessary to close the case.

94. If there is no evidence to support the interviewee's argument, a rebuttal statement will be required. [Redacted]

95. For examples of rebuttal statements, see [Specimen Statements – Rebuttal Statements](#).

96. Once a rebuttal statement has been obtained, the investigation can continue and an appointment made for a resumed Interview Under Caution. At the resumed interview, the rebuttal statement should be shown to the interviewee asked to explain the discrepancies between what they and the witness has said and whether they now accept they knew, when the change occurred, that it should have been declared.

97. If a case is sent to the Crown Prosecution Service (CPS) without a rebuttal statement, where one is required, the lawyer will return the file asking for a rebuttal statement or an explanation why one has not been provided. If a rebuttal statement is not provided, the lawyer at CPS will have to consider whether the case is suitable for criminal proceedings given the fact that there will be no evidence on file which will enable the prosecution to challenge the person's assertion that they reported the change of circumstances to the Department.

Oppression

98. An investigator must not try to elicit answers or admissions during the Interview Under Caution (IUC) by the use of oppression.

99. Oppression involves some form of impropriety by the interviewing officer.

100. Under the Common Law, oppression has been defined as the exercise of authority or power in a burdensome, harsh or wrongful manner, unjust or cruel treatment of subjects and/or the imposition of unreasonable or unjust burdens.

101. Under the Police and Criminal Evidence (PACE) Act admissions obtained as a result of oppression will be inadmissible in criminal proceedings.

102. There is no definitive list as to what is or is not oppressive. Whether or not a confession or admission has been obtained by oppression will be a matter for the court to decide. The Court will take into account everything in the circumstances at the time and draw its own conclusions.

103. In the past Courts have found the following situations, which occurred within IUC's, to have been oppressive. This list is by no means exhaustive and should be used only as a guide by investigators:

- excessively repeating a question in order to gain an admission
- using abusive language
- shouting at or bullying the suspect
- constantly interrupting the subject
- repeatedly accusing the claimant of being guilty or of lying
- going over the same ground again and again

- seeking to break down the suspect's denials by misrepresenting the evidence held

Unreliability or admissibility

104. Under the Common Law and PACE, a confession will be deemed to be involuntary and inadmissible, if it is procured by fear of prejudice or the hope of an advantage held out by a person in authority.

105. As with oppression there is no definitive list as to what would render a confession unreliable or inadmissible, however the following are examples, which have been held to constitute grounds for holding a confession to be unreliable:

- an offer of bail
- minimising the significance of a serious offence
- falsely telling the suspect that they have been identified by a witness
- indicating that the suspect will have to stay in the police station until the matter is cleared up

Changing Compact Discs

106. When the recorder indicates that the Compact Disc (CD) has only a short time left to run, the investigator should tell the interviewee that the CD is coming to an end and round off that part of the interview.

107. The audio device should be stopped, the CD finalised and ejected for sealing, either immediately or at the end of the interview.

108. If the investigator wishes to continue the interview, a new CD should be unwrapped and inserted into the audio device in the presence of the interviewee. The audio recorder should then be set to record on the new CDs.

109. If sufficient CDs are not held, a new set should be obtained. Note: the interviewee must not be left unattended with the audio recording equipment.

110. To avoid confusion between the CDs, the interviewer shall mark the CDs with an identification number immediately they are removed from the audio recorder. See Police And Criminal Evidence Code Of Practice (PACE COP) E 4.11.

Breaks

Breaks in audio-recorded interviews

111. Ordinarily, the average Department for Work and Pensions (DWP) Interview Under Caution (IUC) should not exceed two hours in total. Note that the maximum length of the Compact Disc (CD) is two hours.

112. If a meal or refreshment break is necessary the investigator should explain on CD that a break is to be taken, the reason for it and the time should be audibly recorded.

113. The audio device should be stopped, the CD finalised and ejected for annotation and the master CD should be sealed in front of the interviewee. Both the interviewee and investigator should sign the master CD seal.

114. If the interviewee leaves abruptly or refuses to stay or sign the CD, seal the investigator should record the fact on CD if the audio recording machine is still running or in their N1 official notebook for future reference. A summary of the events must be recorded on FRAIMS. This then enables an audit trail of activities available to the Team Leader or Higher Investigations Leader in case the investigator is absent for any reason.

115. When a break is to be a short one and both the interviewee and the investigator remain in the room, the fact that a break is to be taken, the reasons for it and the time should be audibly recorded. The audio recorder may be paused, there is no need to remove the CD, and when the interview is recommenced, the audio recording shall be continued on the same CD.

The time at which the interview recommences shall be audibly recorded and confirmation of what was said or that nothing was said during the break.

116. Where there is a break in questioning under caution the investigator must ensure that the interviewee is aware that they remain under caution and of their right to legal advice. If there is, any doubt the caution must be given again in full when the interview resumes.

117. In considering whether to caution again after a break, the investigator should bear in mind that they may have to satisfy a Court that the interviewee understood that they were still under caution when the interview resumed. If in doubt, the investigator should err on the side of caution and re-caution the interviewee.

118. The investigator should bear in mind that it may be necessary to show to the Court that nothing occurred during the break in an interview or between interviews that influenced the evidence of the interviewee. For this reason, it is good practise for the investigator to confirm with the interviewee at the recommencement of the interview whether anything was said or occurred during the break in the interview.

Breaks in interviews that are not audio or visually recorded

119. When the break in the interview is only for a short period, there is no need to raise a new [C19 \(link is external\)](#)/[C19S \(link is external\)](#)/[C19W \(link is external\)](#) when the interview is continued. This could happen when you need to leave the interview to check on the benefit position. The following action would be required:

- note the times of breaks at Section 3 of the report
- remind the interviewee that they remain under caution. If there is any doubt whether the interviewee understands, issue the caution again. In each instance, record the action you have taken
- remind the interviewee that they are not under arrest and, if they are interviewed in the office, that they are free to leave at any time or, if they are interviewed elsewhere, that they may ask the investigator to leave at any time

Unforeseen circumstances

Recording devices used by the interviewee

120. If the interviewee starts to use an audio tape recorder, video camera, or any other recording device, continue the interview but another officer must be present. Two officers must be present at all Interviews Under Caution (IUCs) in Scotland.

Recording equipment failures

121. Where the interview is being recorded and the recording equipment fails, the investigator should stop the interview immediately.

122. Where part of the interview is unaffected by the error and is still accessible on the media that media should be copied and sealed in the interviewee's presence, the original unbroken CD becomes the master, and the interview recommenced using new equipment or media as required.

123. Where the content of the interview has been lost in its entirety, for example recording failure leading to two blank Compact Discs (CDs), the CDs should be sealed in the interviewee's presence and the interview re-started. See PACE Code E note 4H.

124. If the recording equipment cannot be fixed or no replacement is immediately available, a contemporaneous handwritten IUC must be completed using the [C19 \(link is external\)](#)/[C19S \(link is external\)](#)/[C19W \(link is external\)](#).

125. If the recording failure is not identified until a later date, usually when the typist discovers that the working CD is blank when preparing a transcript of the interview, it may be necessary to break the seal of the master CD so that a copy of the recording or transcript of the interview can be made. Wherever possible this should be done in the presence of the interviewee.

Interviewee wishes to make own statement

126. In England and Wales, if the interviewee wishes to make a statement this must be done in accordance with Police And Criminal Evidence (PACE) Code C Annex D on the [CI8 \(link is external\)](#)/[CI18W \(link is external\)](#).

127. In Scotland, any statement should be in the interviewee's own words and written by the interviewee, unless the interviewee asks the investigator to write down their statement. This should be written on the [CI8\(S\) \(link is external\)](#).

Ending the interview

Asking the interviewee if they have anything further to say

As soon as the investigator believes that there is sufficient evidence to consider a prosecution against the interviewee they shall ask the interviewee if they have anything further to say.

If they have, record their statement on the Compact Disc (CD) or [CI9 \(link is external\)](#)/[CI9\(S\) \(link is external\)](#)/[CI9W \(link is external\)](#).

If the interviewee indicates that they have nothing more to say, the investigator shall without delay cease to question them about that offence, see Police And Criminal Evidence Act, Code Of Practice (PACE COP) C 11.6.

Inform the claimant that if it is decided that there is an overpayment, they will be notified and will have to repay it.

The CD/[CI9 \(link is external\)](#)/[CI9\(S\) \(link is external\)](#)/[CI9W \(link is external\)](#) should be noted accordingly.

Issuing the CI16 – ‘What happens next’ notice

At the end of the interview, the investigator must give the claimant the appropriate ‘What happens next’ notice. The fact that this notice has been handed to the claimant must be recorded on the audio recording by stating “I am now handing to Mr/Mrs xxxxxxx’ a What happens next notice CI16”.

This notice explains that the documents obtained during the investigation including recordings of the interviews with the claimant will be passed to a senior officer who will decide whether to:

- recommend prosecution - in England and Wales
- submission of a report to the Procurator Fiscal (PF) - in Scotland
- authorise the offering of a Caution or Administrative Penalty (Ad-Pen) or
- consider closure of the case due to insufficient evidence

The CI16 explains the meaning of a prosecution, Caution or Ad-Pen and additionally advises the interviewee that they will be informed by a [CI17 \(link is external\)](#)/[CI17W \(link is external\)](#)/[CI17S \(link is external\)](#) if the matter is to be referred to the Crown Prosecution Service (CPS) or the PF.

If the interviewee fails to attend an Interview Under Caution (IUC) and the Team Leader or Higher Investigations Leader believes there is sufficient evidence for the matter to be referred to the CPS or PF to consider a prosecution, the claimant must be sent letter [CI17A \(link is external\)](#) or [CI17AS \(link is external\)](#) in Scotland, by the investigator.

The CI17 series of forms letters listed below:

Letter	Description
CI17 (link is external)	Recommendation to CPS to Prosecute

CI17S (link is external)	Recommendation to Procurator Fiscal to prosecute
CI17W (link is external)	Recommendation to CPS to Prosecute (Welsh)
CI17A (link is external)	Recommendation to prosecute
CI17AS (link is external)	Recommendation to prosecute (Scottish)
CI17AW (link is external)	Recommendation to prosecute (Welsh)

For more information, see [Loss of Benefit Provisions](#).

If closure is appropriate the issuing of the [CI7/CI7W \(link is external\)](#), which is available as a correspondence template, must be recorded on FRAIMS.

Compact Disc procedure

In England and Wales at the conclusion of the interview, the interviewee must be informed that they can obtain a copy of the recording at any time if requested by them or their legal representation in writing. The [CI12 \(link is external\)/CI12W \(link is external\)](#), which explains how the recording will be used and who to request a copy of the recording from, must also be handed to the interviewee. The fact that this form has been handed to the interviewee, who must be asked to acknowledge receipt, must be recorded on Compact Disc (CD).

In Scotland do not issue [CI12 \(link is external\)/CI12W \(link is external\)](#), a copy of the disc cannot be obtained by customer or legal rep until lodged as a production with PF.

The time must be recorded on the CD immediately prior to the recording being stopped, the CDs finalised and the discs ejected. This does not apply in Scotland.

The CD should then be removed from the audio recorder and the master CD should be sealed in front of the interviewee. Both the interviewee and investigator should sign the master CD seal. If a third party is present, they should also be asked to sign the master CD seal.

If the interviewee leaves abruptly or refuses to stay or sign the CD, seal the investigator should record the fact on the audio recording machine if it is still running or in their N1 official notebook for future reference.

If interviewing at a police station and neither suspect nor third party present will sign the master copy label, an officer of at least the rank of Inspector, or if one is not available the Custody Officer, should be called to the interview room and asked to sign it. See PACE COP E 4.18.

In England and Wales, the sealed tape or CD will be retained as a master tape or CD in case of criminal proceedings. The other tape or CD will be used as a working copy. The working copy can be accessed for the purposes of obtaining typed transcripts of the Interview Under Caution (IUC) as well as for providing audio-recorded copies for the interviewee and or his legal representatives.

In Scotland, the sealed tape or CD is retained as the master tape or CD. The other tape or CD is used as a working copy for the purpose of obtaining transcripts of the IUC.

The Team Leader or Higher Investigations Leader will make arrangements for master tapes or CDs to be kept securely and their movements accounted for.

For Scottish police custody cases, the sealed copy will be forwarded and retained by the Procurator Fiscal in the case of criminal proceedings. The other copy will be a working copy available to the investigator and the police.

Completion of NPA01 - England and Wales only

149. Except in cases where the person has been interviewed in a police station, the [NPA01](#) must be completed immediately after completion of the interview.

150. This procedure should be carried out after the recording device has been switched off and Compact Discs (CDs) removed, or written record ([CI9 \(link is external\)](#)/[CI9S \(link is external\)](#)/[CI9W \(link is external\)](#)) signed by the interviewee when the interview has been recorded contemporaneously.

151. The NPA01 must be clerically completed in the presence of the interviewee. To complete this at any other time can lead to details being recorded inaccurately. Details from the clerically completed NPA01 must be transferred to an electronic version of the form on completion of the interview, or as soon as possible after.

152. The completing officer should only complete page one (1) of the NPA01 which must contain as much information as possible to enable the police to re-activate any previous record or create a new record if required. At this stage, details of the offence and date of court hearing should be left blank. This is because the Crown Prosecution Service (CPS) will decide the offence and legislation to be used, after the file has been submitted to them. The court hearing date will not have been arranged at this stage.

153. The electronic version of the NPA01 must be attached to the initial prosecution e-mail to the CPS. This will enable the CPS to obtain details of previous convictions prior to the first court hearing.

154. Upon receipt of the charges against the claimant from CPS, Digital Case Management Unit (DCMU) officers will complete page two and forward the document to the appropriate police force,

Written interviews

155. Police And Criminal Evidence Act, Code Of Practice (PACE COP) E 4.8 states that if the suspect objects to the interview being audio recorded at the outset, during the interview or during a break, the interviewer shall explain that the interview is being audio recorded and that this Code requires the suspect's objections be recorded on tape.

156. When any objections have been audio recorded or the suspect has refused to have their objections recorded, the interviewer shall say they are turning off the recorder, give their reasons and turn it off.

157. The interviewer shall then make a written record of the interview as in Code C section 11. If however, the interviewer reasonably considers they may proceed to question the suspect with the audio recorder still on, the interviewer may do so.

158. Where audio recording does not occur, a written record must be made at the same time as the interview or as soon as possible thereafter and retained. This would be referred to in court as a contemporaneous record.

159. This may occur when:

- the equipment fails
 - there is no suitable interview room available
 - there are no available audio recording facilities
 - the interviewee objects to the interview being audibly recorded, see PACE COP E 4.8
160. In such cases, the interview shall be recorded in writing in accordance with PACE COP C Section 11. The suggested format is usually on the [CI9 \(link is external\)](#)/[CI9\(S\)](#)/[CI9W \(link is external\)](#).

161. It is important that the interviewee is informed of the role of any other Department for Work and Pensions (DWP) or other Government Department officials present at the interview and this is recorded on the form.

Recording changes made by the interviewee

162. The interviewee must be given the chance to read over the interview record for themselves. Otherwise, the record should be read to them.

163. The interviewee should then be asked to sign each page of the [CI9 \(link is external\)](#)/[CI9\(S\) \(link is external\)](#)/[CI9W \(link is external\)](#) to show that they have read it or had it read to them and that they agreed or disagreed with the contents. Before signing, the interviewee must be given the opportunity to indicate anything in the record they think is inaccurate.

164. If the interviewee disagrees with anything in the record of the interview, the investigator should:

- record the details of the points on which they disagree
- ask the interviewee to read those details

165. Ask the interviewee to endorse the form in the space beside the word ‘**Endorsement**’ that the details accurately reflect their disagreement. The interviewee should then sign and date the [CI9 \(link is external\)](#)/[CI9\(S\) \(link is external\)](#)/[CI9W \(link is external\)](#) under the endorsement.

166. If the claimant agrees that the record of the interview is correct, they should endorse the [CI9 \(link is external\)](#)/[CI9\(S\) \(link is external\)](#)/[CI9W \(link is external\)](#) with the following: ‘I agree that this is a correct record of what was said’ or a similar phrase in the space beside the word ‘Endorsement’ on the [CI9 \(link is external\)](#)/[CI9\(S\) \(link is external\)](#)/[CI9W \(link is external\)](#). The interviewee should then sign and date the form underneath their endorsement.

Alterations after the record of the interview has been signed

167. Never make alterations, additions or notes on the record of the interview once the interviewee agrees it. An amendment that alters the sense of a signed interview record renders the investigator liable to prosecution for attempting to pervert the course of justice.

Refusal to sign the record of the interview

168. If the interviewee refuses to sign the [CI9 \(link is external\)](#)/[CI9\(S\) \(link is external\)](#)/[CI9W \(link is external\)](#), tick the box supplied for this purpose.

Time the interview ended

169. The time the interview ended must be recorded in order to satisfy the court the start and end times of the interview are compliant with the report and there is no suggestion that any part of the interview has not been recorded.

170. Record/explain, in the N1 official notebook and in the summary of the interview to be recorded on Fraud Referral and Intervention Management System (FRAIMS), any discrepancy between the time taken for the interview and the account at Section 3 of the [CI9 \(link is external\)](#)/[CI9\(S\) \(link is external\)](#)/[CI9W \(link is external\)](#).

Further comments

171. Only in exceptional circumstances are interviewers able to question interviewees further. This shows how important it is to cover everything before the allegation is put to the person. However, the interviewee may say something like ‘I should have known I would be caught out’, on the way out of the interview. If they do, record it in the official notebook or on the CI9, as appropriate and in the summary of the interview to be recorded on Fraud Referral and Intervention Management System (FRAIMS).

Another offence comes to light

172. The investigator can interview someone about a further offence that comes to light during the interview. However, the investigator may want to suspend the interview to obtain more information about the offence.

Statement taken

173. If the person wishes to make a statement, record it on tape/Compact Disc (CD), [C18 \(link is external\)](#) / [C18\(S\) \(link is external\)](#) / [C18\(W\) \(link is external\)](#).

174. Link the statement to the file immediately and warn the prosecuting authority that a statement has been taken.

Suspended interviews

175. In some circumstances, the investigator may find the information obtained during the interview to be inconclusive. In these cases, the investigator may feel it necessary to conduct further enquiries after which a further interview may be arranged. Details of any further interview must be recorded on Fraud Referral and Intervention Management System (FRAIMS). Alternatively, the investigator may be satisfied that there is no case to answer.

176. The following are examples of when an Investigator needs to suspend the interview:

[Redacted]

177. The interview must be resumed as soon as all the evidence is obtained, arrangements have been made for a solicitor or appropriate adult to be present or further enquiries have been completed, to keep possible delays to a minimum.

178. When conducting a resumed interview use a new set of Compact Disc (CD), or new [C19 \(link is external\)](#)/[C19\(S\) \(link is external\)](#)/[C19W \(link is external\)](#) if the interview is being conducted contemporaneously. The interviewee must be cautioned and reminded of their legal rights before questioning and presenting evidence not previously shown.

The offer of gifts

179. During an Interview Under Caution (IUC), or at its conclusion, the interviewee may offer a gift to the investigator, or other staff who have dealt with their benefit claim. The gift might be financial, or it could be in another form, for example, chocolates, fruit and flowers and so on.

180. Such intentions may be innocently motivated. However, they may also be motivated as an inducement to prevent a prosecution, or undermine its likelihood of success before a Court. In either situation, the investigator must ensure that the probity of the investigation is protected.

181. Under no circumstances should an officer involved in the case accept a gift from the interviewee or another third party.

182. If a gift is offered the following action must be taken:

- inform the interviewee that such offers are not acceptable
- advise them that any such actions do not have a bearing on the decisions in the case
- record the details of the offer, what gift is offered, and importantly, their response to the rejection of the gift, in the N1 official notebook and in the summary of the IUC on FRAIMS that a gift was offered

183. Notify the Team Leader or Higher Investigations Leader immediately on termination of the IUC of the offer of the gift. The Team Leader or Higher Investigations Leader should record the discussion on the case activity on FRAIMS.

184. If a gift is subsequently offered, accepted, or rejected and left behind, record statements of the events surrounding the offer and included with any subsequent submission for prosecution in the N1 official notebook and in the summary of the IUC on FRAIMS.

03 After the Interview

Action after the Interview Under Caution

1. When the Interview Under Caution (IUC) is concluded, the investigator must evaluate the interview in line with the PEACE and PRICE models. For more information, see [PEACE and PRICE Models](#).
2. The investigator must record a summary of the interview in the Comments field on the Fraud Referral and Intervention Management System (FRAIMS) interview activity.
3. In pre-calculated HB cases, if appropriate, the [notional HB MVA \(link is external\)](#) must be recorded on the Benefit Decision tab on FRAIMS once an IUC has been conducted (or attempted in cases where customer failed to attend). Any pre-calculated overpayment of HB must be recorded on the over/underpayment tab on FRAIMS once an IUC has been conducted (or attempted in cases where customers failed to attend). If an additional HB decision is required, any resulting overpayments must also be recorded on the over/underpayment tab on FRAIMS.
4. Details of the claimant's demeanour during the interview and any other points which will inform the next actions to be taken must be recorded. If necessary, a separate Word document should be produced and attached to the activity. See [FRAIMS guidance – Claimant attend the interview](#).

The investigator has a duty to pursue all reasonable lines of enquiry in an investigation. When you have reason to believe that a claimant notified another department of the change in circumstances, you must ask that department for verifiable evidence.

In the case of Housing Benefit you must ask the LA if they received an Automated Transfers to Local Authority Systems (ATLAS) report in relation to that individual. Refer to [Obtaining evidence](#).

Request for a copy of the IUC audio recording - England and Wales only

5. If requested before a prosecution has commenced, a copy of the audio recording and or transcript can be supplied as soon as practical or as otherwise agreed with the customer or their legal advisor. This provision is dependant on the circumstances of each case and why it has been requested. The FI would have to establish the purposes of the request, whether it is a legitimate request, and at what stage the request is made.
6. For example, a customer appeals, there may be instances where a recording or transcript is requested. This can be provided, in a redacted format if necessary, to ensure fairness to the customer and the appeals process.
7. If we have a legitimate reason not to disclose, consider DPA 29 (1) principles around exemption of fraud related papers on receipt of a SAR from a customer. If this is the case, discuss and agree action with FTL.
8. If the case has already been submitted to the CPS or COPFS the duty of disclosure arises as part of the criminal proceedings and the IUC would normally be disclosed as part of the prosecution case. Prosecutors and investigators should fully comply with their duties under the Criminal Procedure and Investigations Act 1996 and the Criminal Justice and Licensing Act Scotland (2010)

Change of circumstances notified after claim closure

9. Where a change of circumstances comes to the attention of Counter Fraud and Compliance Directorate (CFCD) investigations, when a claim is already closed, Customer Information Service (CIS) must be updated. An example of this would be a change of address.
10. The investigator must complete the [CIS500 \(e-Enabled\)](#) form detailing the appropriate amendments. On completion of all relevant sections by the investigator, the CIS500 must be e-mailed to the Team Leader or Higher Investigations Leader for authorisation. This is done by entering their external e-mail address. Once authorised, the form should be submitted

electronically to CIS Frontline Services, a specialist section responsible for maintaining the integrity of data held on CIS.

11. Updates to CIS can take up to a week. Therefore, when submitting files to the Decision Making Unit (DMU), when a change of circumstances has been forwarded to CIS Frontline Services, alert the DMU to ensure any overpayment notifications are issued to the correct address.

Referrals to the Decision Maker

12. After the interview, ensure the Decision Maker (DM) has all the relevant information to reassess or amend the benefit claim. For more information, see [Obtaining a Decision Maker decision](#).

Typed transcripts

13. In all cases, a typed transcript of the Interview Under Caution (IUC) must be included in the prosecution file.

14. A typed summary of the IUC will suffice in cases that meet the following criteria:

- Income Support or Jobseekers Allowance benefit case
- overpayment is likely to be less than £5,000
- interviewee fully admits to committing benefit offences at IUC

15. Offence types are limited to:

- Working in Receipt – **fully** completed EQ1 form detailing work undertaken and earnings received obtained. A P11 Deductions Working Sheet will not suffice
- income – evidence from reliable source obtained. For example, details from pension provider
- student grant – details from award body obtained
- children in care – details from Social Services obtained
- Instrument of Payment (IOP) – full admission obtained, such as, signature match with identity used

16. For more information on the relevant points to cover in the typed summary and examples of an IUC Summary, see [Appendix 1 - IUC summary Aide memoire](#).

17. Full typed transcripts of the IUC will be required in all cases where the interviewee does not make unequivocal admissions of fraudulently obtaining benefits. The request for the typed transcript must be recorded on the Fraud Referral and Intervention Management System (FRAIMS).

18. The process for obtaining typed transcripts must be recorded on the FRAIMS case. See [FRAIMS guidance – Obtaining the Interview Under Caution transcript](#).

19. A copy of the typed transcript of the interview must be issued to the claimant if they or their legal representative request it.

Action required if the Compact Disc is blank

England and Wales

50. If it is necessary to gain access to the master recording, the investigating officer must arrange for it's seal to be broken in the presence of a representative of the Crown Prosecution Service (CPS).

51. The interviewee or their legal adviser should be given a reasonable opportunity to be present during the unsealing of the master recording (Police and Criminal Evidence Act 1984, Code Of Practice (PACE COP) E 6.2).

52. If, on accessing the master Compact Disc (CD), it is discovered that that CD is blank too, the CD must be resealed in the presence of the attending parties.

53. In these circumstances it would not be practicable to re-interview the interviewee. The investigating officer should provide the CPS with the relevant working file notes taken after the Interview Under Caution (IUC). This is so that the CPS can determine whether the evidential stage in the Code for Crown Prosecutors is satisfied.

54. Details of the approach to CPS for a legal opinion must be recorded on the Fraud Referral and Intervention Management System (FRAIMS). See the [FRAIMS guidance – Obtaining legal advice](#).

Scotland

55. Where the working Compact Disc (CD) is found to be blank, the investigator should write to the interviewee. Explain that, due to a problem with the working copy audio, it will be necessary to make another copy. The interviewee or their solicitor should be invited to the office.

56. In the presence of the interviewee or their solicitor, the investigator must break the seal on the master CD and make another copy. The master CD must then be re-sealed and signed by the interviewee or their solicitor and the investigator.

57. If the interviewee declines to attend the office, two independent witnesses must be present when the seal on the master CD is broken and a copy made.

58. The names of these witnesses must be noted on the Fraud Referral and Intervention Management System (FRAIMS). This is because they will be noted as witnesses in the report to the Procurator Fiscal (PF).

59. If both the master and working copy CD are found to be blank, the question of 'fairness' would have to be considered. It would be considered 'unfair' to re-interview the interviewee under caution.

60. Effectively, this means that the position would be the same as if the interviewee had declined to be interviewed under caution. For example, the interviewee has made no admission to claiming and receiving benefit or to signing any claim documents.

61. The investigator and/or the official witness should make a contemporaneous record in their N1 official notebook of the key points of the interview. For example, the time the interview started, the time the caution was administered, and identification of those present, the offer of legal advice, admission of receipt of benefit, all questions and answers, and the time the allegation was put to claimant.

62. A summary of the events must be recorded on FRAIMS. This record, together with a suitable explanation, will be included in any report to the PF and may allow him to consider instituting proceedings.

Further interviews after the IUC - England and Wales only

63. Sometimes an interviewee requests a further interview after the Interview Under Caution (IUC). This may be to:

- make a statement when they had previously declined to make one
 - provide further information if they have already made a statement
64. However, it should be noted that the interviewee may not be interviewed about an offence after they have been charged with, or informed they may be prosecuted for it, unless one of the exceptional circumstances under paragraph 16.5 of Code C applies. These are:
- to prevent or minimise harm or loss to some other person, or the public
 - to clear up an ambiguity in a previous answer or statement
 - it is in the interests of justice for the interviewee to have put to them, and have an opportunity to comment on, information concerning the offence which has come to light since they were charged or informed they might be prosecuted

65. The original investigator should conduct this interview although another investigator can carry out the task if the original investigator is not available. The investigator must say that they cannot enter into a discussion about the general merits of the case or whether the interviewee will be prosecuted for benefit offences.

66. The interviewee must be cautioned again, reminded of their legal rights and informed that anything they say will be recorded.

67. Record the questions and answers at the time they are given, in full. The interviewee must sign the record or the Compact Disc (CD) seal. If the interviewee refuses to sign the record or CD seal, note the fact and the investigator must then sign the record or CD seal.

Statement taken

68. If the person wishes to make a statement, record it on a Compact Disc (CD) or in writing on the [CI8 \(link is external\)](#) / [CI8\(S\) \(link is external\)](#) / [CI8\(W\) \(link is external\)](#) form.

69. Link the statement to the file without delay and warn the prosecuting authority that a statement has been taken.

Correspondence or other representations made after the IUC

70. The investigator or their office may receive correspondence or other representations about the case after the Interview Under Caution (IUC). If the relevant papers are not available, contact the prosecuting authority immediately for instructions.

71. Details of the request for legal advice must be [recorded](#) on the Fraud Referral and Intervention Management System (FRAIMS) as soon as practicable.

Information already laid - England and Wales

72. If the investigator receives representations after information has been laid, it must be forwarded to the prosecuting authority immediately. The decision to withdraw proceedings is one for the prosecuting authority and not the investigative body.

Claimant fails to attend requests for Interview Under Caution (IUC) - England and Wales only

Section 112 of the Social Security Administration Act (SSAA) requires the prosecution to prove that:

- a representation was made to obtain benefit
- the representation was made by the defendant
- the representation was false and
- the defendant knew it was false.

Under Section 112(1A) of the Act, a person shall be guilty of an offence if:

- a) there has been a change of circumstances affecting any entitlement of his to any benefit or other payment or advantage under any provision of the relevant social security legislation
- b) the change is not a change that is excluded by regulations from the changes that are required to be notified
- c) he knows that the change affects an entitlement of his to such a benefit or other payment or advantage, and
- d) he dishonestly fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

It is presently the policy that only working and claiming cases under section 112 and 112(1A) of the SSAA can be put forward for prosecution in the absence of an interview under caution. The investigating officer must always seek to prove all appropriate elements in the preceding paragraphs during an Interview Under Caution (IUC).

Where an IUC has not been conducted and the case is one of undeclared work, it will not be accepted for prosecution by the Crown Prosecution Service (CPS) unless the prosecutor is

satisfied that there is evidence to prove 'nexus', such as, that the person named on the prosecution file is the person who claimed benefit and worked and is the person named on the Statement of Earnings form EQ1.

For example:

[Redacted]

or

[Redacted]

Where the person is self-employed, the EQ1SE form asks specific questions of employment agencies.

For example:

[Redacted] consider [Arrest - When can an arrest be considered](#)

Deportation of foreign nationals

77. The Secretary of State has the power to deport a foreign national who is subject to immigration control if they have been convicted of a crime, where a term of imprisonment can be imposed.

78. By virtue of Section 6(2) of the Immigration Act 1971 the courts are unable to make a recommendation for deportation unless the person has been served with a notice warning them of their liability for deportation. The notice (IM3) must be served at least seven clear days before sentence is imposed.

79. The IM3 should usually be served by the police or an official from [UK Visas and Immigration \(link is external\)](#). Failing this, the investigating officer or the prosecuting authority can serve the IM3. Home Office guidance explains that the notice should be served at the point the person is charged with an offence that is punishable with imprisonment, at the police station.

80. IM3 forms should be available at police custody suites or from UK Visas and Immigration.

81. Further information on the deportation of foreign nationals can be found in the [Home Office Circular 70/2004 \(link is external\)](#).

Returns Instructions

84. When returning the Digital Recorder under extended warranty support please make sure that the complete recording system is included

- x1 digital recorder
- x1 soft carry case
- x2 directional microphones
- x1 mains lead
- x1 power supply
- x1 quick guide operation instructions

85. Place all of the above into the transportation case and secure with the cable ties (provided).

86. Use the enclosed address label in order to return "address" the transportation case to:

[Redacted]

87. AV Niche will contact to confirm delivery of the replacement Digital Recorder and to arrange return of the "previous" Digital recorder.

Note: Failure to return a complete recording system will invalidate the extended warranty support.

Appendix 1 – Interview Under Caution (IUC) Summary Aide-memoire

88. This aide-memoire provides guidance on when a typed summary of an IUC may suffice, as opposed to a fully typed transcript.

Eligibility Criteria

89. Initially cases must meet the following eligibility criteria:

[Redacted]

90. Cases that meet the eligibility criteria must fall into the following limited offence types, to be considered:

- [Redacted]

Content of summary to Decision Maker

91. Cases that meet both the eligibility criteria and offence types can be considered for a summary IUC. You must ensure that all relevant facts are documented in the summary, including:

- date and time the IUC commenced and ceased
- persons present
- claim forms or evidence shown, if relevant
- knowledge established
- action, intent or dishonesty established
- date offence admitted from
- nexus proven
- amounts received, details agreed as per EQ1 form, pension slips agreed, student grant award agreed, details from Social Services agreed
- payday, such as weekly/fortnightly/monthly/date(s) paid
- any payments containing arrears must be identified and broken down, giving amount of arrears, period(s) covered and why not paid at the correct time

IUC Summary Examples

Working In Receipt

Claimant:

FI(s) present:

Other parties present:

Date:

Location:

Time IUC commenced: (am/pm)

Summary of Interview

[Redacted]

Time IUC terminated: (am/pm)

Signed: (FI)

Name:

Date:

Student Grant

Claimant:

FI(s) present:

Other parties present:

Date:

Location:

Time IUC commenced: (am/pm)

Summary of Interview

[Redacted]

Time IUC terminated: (am/pm)

Signed: (FI)

Name:

Date:

04 Interviewing people at risk

Attendance of an appropriate adult

A juvenile, or person who is identified as an [individual with complex needs and/or requiring additional support](#) must not be interviewed regarding their involvement or suspected involvement in a criminal offence, or asked to provide or sign a written statement under caution or record of interview, in the absence of an appropriate adult.

Those requiring the presence of an appropriate adult are anyone who:

- **[Redacted]**

Where any circumstance suggests that an Appropriate Adult may be required and yet agreement has been reached with the person being interviewed that one is not required at the Interview under Caution, if this discussion is not clearly recorded as a part of the interview then a contemporaneous note must be made in your [official notebook](#), and subsequently recorded onto FRAIMs. These notes must then be made available to CPS within the notes to advocate.

When considering the need to include an appropriate adult there is no need for a prescriptive, one size fits all approach, continue to consider what PACE says in this regard and apply that to the cases concerned. (CFCD guidance on [Interviewing people at risk](#),) and ([PACE Code C 2017 \(link is external\)](#)). (NB: Page 38, para' 11.15 et seq may be particularly helpful).

If it is known that someone fits the above criteria, which could be from Departmental records or evidence provided by the claimant, arrangements must be made with the claimant to ensure that an appropriate adult is present at the interview, if:

- the claimant states they know of no one who could act as an appropriate adult, the investigator must arrange for a social worker or someone from a voluntary organisation such as the Citizens' Advice Bureau to be present, this is because it is the responsibility of the Counter Fraud and Compliance Directorate (CFCD) to ensure the presence of an appropriate adult in these circumstances. Other services, including those for which a charge is made, may be available in your locale. Where a charge is required, you will have processes in place locally for invoicing and payment.
- this person refuses to have an appropriate adult present the investigator must discuss the case with the Team Leader (TL) or Higher Investigations Leader (HIL) Senior Leader (SEO) to decide whether the investigation must continue or close the case on health grounds. If the decision is to continue, advice must be sought from the Crown Prosecution Service (CPS) on how to progress the case.

The Police And Criminal Evidence Act (PACE) 1984 defines an appropriate adult as:

In the case of a juvenile:

- the parent or guardian
- if in care, the care authority or voluntary organisation
- a social worker of a local authority
- failing any of the above another responsible adult aged over eighteen who is not part of the investigating organisation.

In the case of a person mentally disordered or vulnerable:

- a relative, guardian, or other person responsible for their care or custody
- someone who has experience of dealing with mentally disordered or mentally handicapped people but who is not employed by the investigating organisation
- failing either of the above some other responsible adult aged eighteen or over who is not employed by the investigating organisation.

PACE does not apply in Scotland but there is a specific Appropriate Adult Policy for investigative interviews in Scotland.

In Scotland, an appropriate adult must be present at the interview if the interviewee is mentally disordered as defined in The Mental Health (Care and Treatment) (Scotland) Act 2003 which defines a mental disorder as any mental illness, personality disorder, or learning disability however caused or manifested.

Appropriate adult role England and Wales

7. Before the interview commences, the appropriate adult must be given an appropriate adult notice [CI15 \(link is external\)](#)/[CI15W \(link is external\)](#). A copy of the Home Office Guidance for Appropriate Adults must also be made available for them to consult during the interview.

8. This document can be downloaded from the Home Office web-site: [Guidance for Appropriate Adults \(link is external\)](#).

9. The appropriate adult must also be informed that they are not expected to act simply as an observer. Their role is:

- to advise the person being interviewed
- observe whether the interview is being conducted properly and fairly
- facilitate communication with the person being interviewed

10. The interviewer must also be aware that:

- the vulnerable person can consult privately with the appropriate adult at any time, Police and Criminal Evidence Act, Code Of Practice (PACE COP) C 3.18 refers
- a solicitor acting in the capacity of legal advisor cannot also act as an appropriate adult, PACE COP C 1F refers

Scotland

11. In Scotland, the primary role of an appropriate adult is to facilitate communication, in addition to this their presence may also provide support and reassurance for the individual with a mental disorder at an interview, specific forensic procedures or examination, precognition and at court.

12. Appropriate adults in Scotland will have received training and be qualified to carry out the role. They should be fully aware of their role and responsibilities; therefore there is no requirement in Scotland to give them a notice prior to commencement of the interview, to explain the roles.

13. For further information on the Appropriate Adult Policy in Scotland, see: [Guidance on Appropriate Adult Services in Scotland \(link is external\)](#) issued by the Scottish Executive.

Recording the appropriate adult attendance

14. Obtain and record the following details of an appropriate adult attending an interview:

- name
- address
- occupation
- relationship, if any, to the person being interviewed

15. The attendance of an appropriate adult at an interview must be recorded on the Interview activity on FRAIMS under the heading 'Comments'.

Interviewing blind or seriously visually impaired people

16. It is not a legal requirement for a blind or seriously visually impaired person to have an appropriate adult with them during the Interview Under Caution (IUC). If the interviewee is blind or seriously visually impaired, the interviewing officer should make sure their solicitor, relative, or some other person likely to take an interest in them, appropriate adult if the claimant is also under 17 or mentally disordered, and not involved in the investigation is available to help check any documentation, see Police and Criminal Evidence Act Code Of Practice (PACE COP) C3.20.

17. When required, the assisting person may sign any documentation on behalf of the blind or seriously impaired person if this is preferred.

Interviewing persons at risk

Do not interview anyone who appears unable to appreciate the significance of questions and their answers or understand what is happening because of the effects of drink, drugs or any illness, ailment or condition, Police And Criminal Evidence, Code Of Practice (PACE COP) C11.18 refers.

In a police station if there is any doubt that the person is at risk due to the reasons set out in the preceding paragraph, the custody officer will decide whether a police medical examiner should be consulted for an opinion on whether they should be interviewed.

If it is confirmed that they are at risk, the suspect may not be interviewed unless an officer not below the rank of Superintendent considers that delay may lead to:

- interference with, or harm to, evidence connected with the offence
- interference with, or physical harm to other people
- serious loss of, or damage to property
- alerting other people suspected of committing an offence but not yet arrested for it
- hinder the recovery of property obtained in consequence of the commission of the offence.

See PACE COP C11.1.

Where the person to be interviewed under caution has declared or indicates that they have an intention to attempt self-harm or suicide, [follow the six point plan \(link is external\)](#). For the investigation consider the issue under '[Mental or physical conditions](#)'. Investigators sited in local offices should also familiarise themselves with their own office plans as they may have more detailed information about local support for vulnerable customers.

05 Interpreters including sign language interpreters

General information about interpreters

1. The Counter Fraud and Compliance Directorate (CFCD) investigator will require the services of an interpreter if the interviewee is unable to understand English or is deaf, the Police And Criminal Evidence (PACE) Act 1984 Code Of Practice (COP) C13.1 to 13.7 refers.
2. In Wales, under the Welsh Language Act, the interviewee may request that the interview be conducted in Welsh notwithstanding the fact they may be able to speak English, if the investigator is unable to speak Welsh, an interpreter will be required.
3. The interpreter must either physically attend the interview or if it is conducted by live visual link, all the attendees that are physically present must be able to clearly see and hear the interpreter and vice versa. The interview must be recorded in all instances.
4. The interpreter must be independent of both the interviewee and Department for Work and Pensions (DWP), and the police when the interview follows an arrest, and be suitably qualified.
5. If an interpreter is required, do not use friends, relatives or colleagues of the interviewee. PACE states that an officer of the organisation cannot act as an interpreter for the purpose of obtaining legal advice.
6. The investigator can carry out an interview in a language other than English, but only if this is their first/native language or they have the necessary qualification as an interpreter in that language.
7. If this option is considered, the officer must be confident that they are fully competent in conducting an interview in a language other than English. This is because their ability to act as an interpreter may be brought into question during cross examination in court.
8. An interpreter's role is confined to translating the investigator's questions and the interviewee's answers. The interpreter should not provide the interviewee with legal advice.
9. When considering the payment of interpreters fees try to encourage payment via the Government Procurement Card (GPC) when a particular interpreter is used frequently.

Qualifications

10. Every interpreter working in the criminal justice system should be registered with the National Register of Public Service Interpreters (NRPSI) or the Council for the Advancement of Communication with Deaf People (CACDP) Directory of British Sign Language/English Interpreters because they offer a minimum and measurable standard of training and quality assurance.
11. Interpreters must be able to demonstrate; language skills and an understanding of, and ability to adhere to, the role of the interpreter.
12. The minimum qualifications for an interpreter are:
 - a Diploma in Public Service Interpreting (DPSI) in the languages where it is offered for examination, more information is available from the Institute of Linguists (IOL) **or**
 - a degree level language qualification with an interpreting component **or**
 - a pass of the Metropolitan Police Test (post 1997) **or**

- equivalent Level 4/5 National Vocational Qualification (NVQ) in Interpreting Standards **or**
- membership of a professional body for example, IOL or the Institute of Translation and Interpreting (ITI).

13. It is recommended that the above requirements are taken into consideration and that proof of suitability is obtained when an interpreter is required.

Recording the interview in writing

14. In audibly recorded interviews, if the interviewee is deaf or is suspected of having impaired hearing, there is a requirement on the investigator to make sure the interpreter makes a separate note of the interview – PACE COP E Note 4C.

15. Additionally the investigator must make a written note of the interview in accordance with Code C, contemporaneous record of Interview Under Caution (IUC), at the same time as the audio recording, PACE COP E 4.7 refers.

16. In such cases the investigator should make sure the interpreter is allowed to read the interview record and certify its accuracy in the event of the interpreter being called to give evidence, see PACE COP C 13.7.

17. If the interview is being recorded by way of written notes, rather than audio or video recorded, the interpreter will record the interview in the language in which it is conducted.

18. Afterwards they will provide a translation of the interview and must make a witness statement producing the original record and the translation.

19. In an audio-or video recorded interview using an interpreter, the procedure for providing a copy of the audio or transcript is the same as any other audio interview. See [Request for a copy of the IUC audio recording - England and Wales only](#).

06 Interviews at Police Stations

Considerations prior to the interview

1. In England and Wales, when the interview is to be conducted in police custody, it is essential to consult with the Custody Sergeant to ensure that consideration has been given to the following issues:

- has legal representation been requested by the arrested person?
- are there any custody time limit constraints?

2. In Scotland, where a person has been detained under Section 14 of the Criminal Procedures (Scotland) Act 1995, they can only be questioned by the police and not by an officer of the Department for Work and Pensions (DWP). The police will ensure that subject's rights under Section 15 of the Act are met.

3. The following aspects apply to all Interviews Under Caution (IUC):

- is an appropriate adult required?
- is the suspect fit to be interviewed?
- does the suspect require a translator or interpreter?
- has their legal representative or solicitor arrived?

Right to legal advice

4. In police station arrest cases, the Custody Sergeant notifies suspects of their legal rights when they are booked into the police station. Interviewees should be reminded of their rights at the commencement of the Interview Under Caution (IUC).

5. In cases where the interviews are conducted at police stations the interviewee must be informed that they may at any time seek free independent legal advice by consulting and communicating privately with a solicitor, whether in person, in writing or by telephone.

Conduct of the legal advisor

6. The solicitor's only role is to protect and advance the legal rights of their client. The solicitor may give legal advice or intervene in order to seek clarification, challenge an improper question, the manner in which it is put, or advise the interviewee not to reply to certain questions.

7. In police arrest cases, the interview should be terminated and the custody officer informed. The removal of an obstructive legal representative from an interview is a decision that can only be made by a police officer, not below the rank of Inspector, and must be in accordance with Police and Criminal Evidence (PACE) Act 1984 Code Of Practice (COP) C 6.9.

Interpreters required when an arrest is necessary

8. In order to ensure compliance with the Department for Work and Pensions (DWP) Interpreting Contract, in police arrest cases where intelligence clearly suggests that an interpreter will be required, the DWP contract must be considered as part of the planning process when a clear date and time for an interview has been set, for example, where an arrest at a police station is arranged by appointment.

9. When it is not clear what language is required an interpreter should be arranged after the arrest.

10. Where a need for an interpreter is identified **following** an arrest, an interpreter will be arranged by the police Custody Sergeant from the Association of Police and Court Interpreters (APCI) register.

Payment process

Interpreter arranged by the Metropolitan Police Force

11. When the interview and custody process has been completed, the investigator must note the interpreter's details in their official notebook and sign the Metropolitan Police Interpreter Claim form (Form 319) held by the Custody Sergeant. The Metropolitan Police will then pay the interpreter.

Criminal Investigations cases

12. The Metropolitan Police will submit an invoice to Counter Fraud and Compliance Directorate Criminal Investigations, Investigation Support, **[Redacted]** who will arrange for completion of the [INT1 \(link is external\)](#) by the appropriate Higher Investigations Leader (HIL).

13. Once the completed form has been returned to Criminal Investigations Investigation Support they will reimburse the Metropolitan Police for the interpreter services.

Local Service Investigations cases

14. The Metropolitan Police should submit an invoice to the Counter Fraud and Compliance Directorate (CFCD) nominated contact point, who will arrange for completion of the INT1 by the appropriate Team Leader (TL) / Higher Investigations Leader (HIL) who will arrange payment to the Metropolitan Police for the interpreter services.

15. In practice, the Metropolitan Police do not normally distinguish between Criminal Investigations and Local Service Investigations cases and sends all invoices to Criminal Investigations Investigation Support at **[Redacted]**.

16. In these cases Criminal Investigations Investigation Support will arrange payments to the Metropolitan Police following completion of the INT1 by the Local Service Investigations Team Leader.

Interpreter arranged by other police forces

17. When the interview and custody process has been completed, the investigator must note the interpreter's details including hours worked, etcetera, in their official notebook and give the name and address of the Team Leader (TL) / Higher Investigations Leader (HIL) to whom the invoice should be sent.

18. On receipt of the invoice, the TL / HIL will arrange completion of the INT1, which must be submitted with the invoice for payment to:

- in Criminal Investigations cases, to Criminal Investigations Investigation Support, **[Redacted]**
- in Local Support Investigations cases, to the Counter Fraud and Compliance Directorate nominated contact point.

Audio recorded interviews

19. When interviews take place at the police station they will be audio or visually recorded with sound or recorded by Secure Digital Network, see Police And Criminal Evidence (PACE) Act 1984 Code of Practice (E & F).

Interviews recorded by Secure Digital Network - England and Wales only

20. Some Police forces use a secure digital network system for recording the Interview Under Caution (IUC). In these cases removable media such as audiotapes or Compact Discs (CDs) will not be used, instead the recording will be saved locally to a secure non-removable device before it is transferred to a remote network device, PACE COP E, section 7 refers.

21. If the interview is recorded by a secure network system, a police officer will be present along with a Department for Work and Pensions (DWP) investigator.

22. At the start of the interview the police officer will in the presence of the suspected person switch on the recording equipment and log on to the secure network. They will then inform the claimant that:

- the interview is being recorded using a secure network
- the interview has commenced
- they will be given access to the recording if they are charged or informed they are to be prosecuted, but if they are not charged will only be given access if agreed by the police or obtain a court order
- they will be given a notice at the end of the interview setting out their rights to access the recording and what will happen to the recording, PACE COP, E 7.5 – 7.7 refers.

23. The interview will then proceed in the same way as any other interview under caution.

24. At the conclusion of the interview the following action must be taken in accordance with PACE COP E 7.13:

- the time shall be orally recorded
- the suspected person will then be given a notice by the Police officer explaining how the recording will be used, the arrangements for accessing it and how to obtain a copy either electronically or by removable recording media such as a CD.
- the suspected person must be asked to confirm that they have received a copy of the notice. If the person refuses to accept the notice or refuse to acknowledge they have received it, the interviewer must record this
- once the above action has been completed the time must again be recorded and the suspected person informed that the recording is to be saved to the secure network
- the interviewer must save the recording in the presence of the suspect
- the suspected person must then be informed that the interview has terminated.

Visually recorded interviews

25. The same procedure applies to visually recorded interviews and is covered in PACE COP F 4.3 et seq. and PACE F section 7 for visual recorded interviews by Secure Digital Network.

Interviews that are not audio or visually recorded or recorded by Secure Digital Network

26. PACE COP E 4.8 states that if the suspect objects to the interview being audio recorded at the outset, during the interview or during a break, the interviewer shall explain that the

interview is being audio recorded and that this Code requires the suspect's objections be audio recorded.

27. When any objections have been audio recorded or the suspect has refused to have their objections recorded, the interviewer shall say they are turning off the recorder, give their reasons and turn it off.

28. The interviewer shall then make a written record of the interview as in Code C section 11. If, however, the interviewer reasonably considers they may proceed to question the suspect with the audio recorder still on, the interviewer may do so.

29. Where audio recording does not occur, a written record must be made at the same time as the interview or as soon as possible thereafter and retained. This would be referred to in court as a contemporaneous record. This may occur when:

- the equipment fails
 - there is no suitable interview room available
 - there are no available audio recording facilities
 - the interviewee objects to the interview being audibly recorded, see PACE COP E 4.8.
30. In such cases, the interview shall be recorded in writing in accordance with PACE COP C Section 11. The suggested format is usually on the [CI9 \(link is external\)/CI9\(S\) \(link is external\)/CI9W \(link is external\)](#).

31. It is important that the claimant is informed of the role of any other Department for Work and Pensions (DWP) or other Government Department officials present at the interview and this is recorded on the form.

Charging or bailing a suspect interviewed in a police station

England and Wales

32. After an interview has taken place at a police station, and after the investigating officer has sought charging advice from a lawyer at Crown Prosecution Service (CPS), the police, in consultation with the CPS, consider whether the interviewee should be charged with a criminal offence, is given bail and/or is remanded in custody.

33. In England and Wales (E&W) the following either way Social Security Administration Act 1992 (SSAA) offences are now accessible in all police station custody suites through the Incident Based Information System (IBIS) using the Custody Computer Charging Justice System (CCCJS) Offence Code. This should be used when investigators are working with the police in arrest cases.

34. The police Custody Officer would access IBIS and the purpose is to ensure that the wording of the charge used is correct. Without the use of IBIS the charge would need to be handwritten at the end of the interview. This could cause inaccuracies and lack consistency.

CCCJS Offence Code	<i>Legislation</i>	<i>Offence</i>
SS92036	Section 111A (1) (a)	Making a false statement

SS92037	Section 111A (1) (b)	Producing a false document/information
SS92038	Section 111A	Cause or allow production of a false document/information
SS92039	Section 111A (1A)	Fail to notify change in circumstances
SS92040	Section 111A (1B)	Cause to allow another to fail to notify change in circumstances

Scotland

35. A person suspected of committing an offence punishable by imprisonment may be detained by the police without charge for 6 hours during which time they are not obliged to answer any questions other than state their name and address.

36. After 6 hours the detained person must be either released without charge or arrested and charged, at which point the period of detention would end. This is in accordance with section 14 of the Criminal Procedure (Scotland) Act 1995.

37. The Scottish equivalent of police bail is police liberation. This is where someone has been arrested and charged but has been released on the understanding that they will appear in court on a specified date (section 22 of the Criminal Procedure (Scotland) Act 1995 refers).

Options after terminating the IUC in police arrest cases

England and Wales

38. In England and Wales, after an Interview Under Caution (IUC) has taken place at a police station, the police will have to consider whether the interviewee should be charged with a criminal offence and or is given bail.

39. Before the police charge the interviewee, the investigating officer must contact a lawyer at Crown Prosecution Service (CPS) in order to seek legal advice on the appropriate charge selection.

40. The investigating officer must ensure that the lawyer is provided with sufficient facts and evidence about the case so that the lawyer can advise on correct charge selection. Only then should the custody officer proceed to charge the suspect with the offences that have been selected by CPS.

41. Ideally, investigating officers should contact a lawyer at CPS for legal advice in advance of the police arrest and the interview under caution. This will enable the lawyer to examine the evidence and advise on accurate charge selection.

42. After the custody officer has charged the interviewee with criminal offences they will decide whether the interviewee should be released on bail or remanded in custody. As a general rule, the interviewee will be released on police bail if the custody officer is confident that the interviewee will not abscond or commit additional offences whilst on police bail.

43. Ordinarily, if the interviewee is charged with offences they will make their first court appearance within 48 hours. If this occurs it is imperative that the investigating officer informs CPS of the position as soon as is reasonably practicable.

44. Investigators involved in police cases must always consider whether bail is appropriate. Where the suspect is bailed to obtain further evidence, make further enquiries or obtain legal advice, investigators should always suggest bailing under S37 (7)(b) of Police And Criminal Evidence (PACE) Act 1984.

45. If a person is arrested under the suspicion of an offence but later satisfies the investigator during the interview of his lack of involvement/knowledge, at this stage the suspect may be released, without charge and without bail.

46. In the vast majority of police arrest cases the case will be adjourned at the first hearing. CPS can then consider, where appropriate, amending the charges at court.

47. This should not occur if legal advice has already been obtained from a lawyer at CPS prior to arrest or charge.

Scotland

48. In Scotland, under the 'Test of Fairness', the Custody Sergeant has three options available to him/her following the interview:

- arrest, charge and detain - Section 22 of the Criminal Procedure (Scotland) Act 1995 refers
- arrest, charge and release - Section 22 of the 1995 Act, or simply charge and release in relation to common law
- release without charge.

07 PEACE and PRICE models

P.E.A.C.E model - England and Wales

P - PLANNING AND PREPARATION

The object of an interview is to establish what actually happened. Therefore the interviewer should:

Plan

understand why the interview is necessary

have clearly defined objectives

understand the offence - points to prove

possible defence mitigation

analyse available evidence

assess evidence required

consider sketch plans, etcetera

understand the requirements of the Police and Criminal Evidence Act (PACE)

appropriate adult required

Prepare

location of Interview

when to interview - time, welfare, meals, rest. etcetera

reduce potential distractions to a minimum

availability of exhibits

audio recorder switched on and fully charged or plugged into the mains supply

sufficient stationery – forms and Compact Discs (CD)
role of interviewers
prepare room – is a legal representative to be present?

E - ENGAGE AND EXPLAIN

At this stage a working relationship should be established so the interviewer should:

be courteous
be professional
use language appropriate to interviewee
formalities:
explain roles of persons present
give caution correctly
explain about legal advice
explain purpose of the interview
explain how you will run the interview
witness - tell them what is expected of them
remember - first impressions are very important. Do not spoil your chance of a good interview before you start!

A - ACCOUNT

This stage of the interview is where you obtain and deal with the interviewee's recollection of the events:

choose appropriate structure:
cognitive
style of interviewing
conversation
establish credibility of interviewee
obtain interviewee's version of events
know points to prove
ask open questions
demonstrate good communication and listening skills
test admissions
probe explanations
be FLEXIBLE don't just follow a script.

C - CLOSURE

This is only the end of the interview, not necessarily the end of the working relationship with the person. Therefore the interviewer should:

summarise
check mutual understanding
invite questions/feedback
tell the person what will happen next

know and implement formal procedure
leave the person with a professional image.

E - EVALUATE

This is an opportunity to review the interview, the investigation and the interviewer's skills and abilities.

Interview

did it achieve its objectives?
what new information/issues from interview?
can you test lies/defence/alibis? How?
can admissions be proved? How?

Investigations

can we proceed with the investigation as a result of the interview?
am I ready to report the person?
what do I need to do next?

Interview skills

how well did I conduct the interview?
what did I do well?
what could I do better next time?
was my planning/preparation adequate?

P.R.I.C.E. model – Scotland

P - Planning and Preparation

The object of an interview is to establish what actually happened. Therefore the interviewer should consider every aspect of the interview addressing both the requirements of the particular investigation with which you are dealing and the practicalities of the process of conducting the interview;

Failing to carry out the above could result in failure to achieve the aims and objectives of the interview and this could result in breaches of current guidelines, which could ultimately have the contents ruled inadmissible.

R - Rapport

The first points to consider at the outset of an Interview Under Caution are:

the initial meeting with the interviewee and the third parties
a brief explanation of the reason for the interview
explaining what will happen in the course of the interview and the roles of all present
ensuring the interviewee understands their right to legal representation
ensuring full understanding of the caution

correctly dealing with any significant comments or statements made before the interview commenced or the CD was activated

dealing with third parties and legal representatives, considering advance disclosure in line with Department for Work and Pensions (DWP), Her Majesty's Revenue and Customs (HMRC) or Local Authority (LA) policy.

It is the interviewer's responsibility to ensure all the above points are satisfied.

The interviewer has only one opportunity to make a first impression and how this is dealt with can affect the remainder of the interview.

The interviewer should demonstrate the following:

be courteous at all times

be well dressed

use appropriate language

deal appropriately with third parties

be knowledgeable and give correct information prior to the interview commencing or the audio recording machine being switched on

be proficient in the use of the audio recording machine

comply with current guidelines and policy at all times.

I - Information Gathering

This element of the interview gives the interviewee the opportunity to respond to the allegation against them.

obtain the interviewees version of events in relation to the situation leading up to claiming benefit, or submitting a tax return

obtain their account in relation to the allegation against them

make notes on topic areas.

C - Confirming the Content

This is the heart of the interview.

review information given by the interviewee and present it back to them

summarise and reiterate what has been said

probe the content of the interviewee's story, in order to fully understand their explanation, if given, regarding the allegation against them

bring in the second interviewer to clear any outstanding points.

E - Evaluation and Action

ask their own questions from the interview plan and probe and clarify answers, such as examine the evidence held with the interviewee

address any discrepancies and/or inconsistencies in evidence gathered before or during the interview.

These areas should be probed/explored by the investigator. This probative questioning should not take the form of a cross-examination but rather, should be a fair and ethical questioning session.

bring in the second interviewer to clear up any outstanding points.

On completion of the interview the interviewer should:

summarise the salient points of the interview
invite questions from the interviewee
follow the formal closure procedures
tell the interviewee what will happen next, in line with DWP guidelines.

Evaluation - Post Interview

The following should be considered:

were the objectives achieved?
were current guidelines/case law and good practices followed at all times?
what new information was obtained?
what was proved/disproved?
was the truth established?
was corroboration obtained where possible?
is further corroboration needed?
have 'action', 'knowledge' and 'intent' been proved?
is further investigation required?

Evaluating own performance

how well did I conduct the interview?
what did I do well?
what could I have done better?
was the planning and preparation adequate?
how well did I question/probe?
what would I do differently next time, and why?

Aide memoires for Interviews Under Caution

England and Wales

1. Suggested script for the interviewer

Opening an audio recorded Interview Under Caution

“This interview will be conducted in accordance with The Police and Criminal Evidence Act and a copy of this Act’s Code Of Practice is available for you to refer to at any time during the interview. The interview will be audio recorded until conclusion and may be given in evidence if your case is brought before the court.

It is	[Time]
On	[Date]
We are in the interview room at	[Name of location]
I am	[Rank/Grade]
The other interviewer(s) present is/are	[Other interviewers to state their name, rank/grade]
Their role is to	[Explain briefly the reason for the other officer's presence at the interview]
Please state your full name	[Client to give their full name]
Also present is/are	[Each party to identify themselves and state their relationship to the claimant for example solicitor / interpreter] (For a non-legal representative or friend, remind them of their responsibility as per Other persons present at the interview)
Do you agree there is no one else present in the room?	[Client to confirm]

At the end of the interview I will give you a notice that will explain the procedure for dealing with the Compact Disc (CD) and how you can obtain a copy of the recording.

The interview is regarding an allegation that you have [enter nature of allegation] such as: failed to declare relevant capital [money] / failed to declare full details about a partner or dependant / failed to declare full details about work / failed to declare relevant details about your health.

If you have a mobile phone I would like you to switch it off unless you are waiting for an important call. I am now obliged to give you a caution, the time is now.....

You do not have to say anything but it may harm your defence, if you do not mention when questioned, something which you later rely on in Court. Anything you say may be given in evidence.

Do you understand the caution? / What do you understand by this caution?"

Explain in your own words if the client does not appear to understand what has been said.

Suggested explanation

"You are being interviewed today because you are suspected of having committed criminal offences. This interview will provide you with an opportunity to explain certain facts and to give reasons for your actions. However, in law, you retain a right of silence and do not have to say anything.

Can you confirm that you have been provided with a written summary of the allegation, understand it and are happy to continue with the interview.

If you do not say anything now and the case goes to court and you say something in court, which you could have said now, the court may wonder why you did not mention these facts or reasons during this interview. This could harm your defence in court.

"You are not under arrest and you are free to leave at any time. You may obtain legal advice if you wish, either in person or by telephone. Do you wish to obtain legal advice?"

Only if the reply is No,

"Is there any reason why you do not wish to obtain legal advice? If you wish to seek legal advice at any time during this interview, let me know and I will stop the audio recording and suspend the interview to enable you to do so."

Continue

"Can you confirm that the CDs used for this interview were unsealed in your presence? Prior to the audio recorder being switched on can you confirm that it was explained to you that you were to be Interviewed Under Caution regarding possible offences, for which legal proceedings may be taken

I am now issuing..... [name of interviewee] with the CI10 notice to persons being interviewed. Please take time to read through the form. Please acknowledge receipt of this form and sign a copy for our records."

Put any significant statement/relevant or unsolicited comment in the Official Notebook and ask claimant to sign it.

CD change

If more than one CD is required, the following procedure should be followed:

End of old CD

"The CD is coming to an end. The time is (Time).

I shall now switch the machine off".

Start of new CD

"This is a continuation of an interview with [Name].

The time is[Time] and I will resume the interview. I must remind you that you are still under caution. Do you understand? (If in doubt, re-caution in full).

Re-state their rights (if in doubt explain in full again). Then,

"You are free to come and go as you please. You may obtain legal advice if you wish".

Agree that no conversation took place in the break concerning the interview. If a conversation did take place, ask the client to repeat/recall what was said.

Consider stating for the purposes of the CD either:

"There has been no change to the personnel in the room" or state what changes have occurred. Ask client to sign pocket notebook if any unsolicited comments were made.

Special Circumstances

Remember, if anything happens which disrupts the recording, always explain on CD what has happened, stating times, reasons etcetera.

Interruptions

Interruptions should be discouraged. However, if it is necessary for someone to enter the interview room, they must identify themselves and state the reasons for their interruption

Refusals

If this is before the audio recorder is switched on, explain that this will provide a clear and undisputed account. Switch on the machine and introduce the interview normally. If the client continues to object or objects during the interview, it is important that the objections are clearly recorded.

Say:

"My instructions require that your objections are recorded on CD".

Once the objections have been recorded, or if the client will not speak.

Announce:

"I am switching off the audio recorder because

Serve a Rights of CD copy form, state the time and switch off the audio recorder. Package the CDs and continue interviewing. The record of the interview must be written as it takes place or as soon as practical afterwards. This is commonly referred to as recording the interview contemporaneously.

Exhibits

Always clearly describe the exhibit and consider the exhibit reference. Remember the audio recorder cannot see!

Breaks in an interview

If it is necessary to have a break in an interview, state the time and give the reason for the break. At no time should the interviewee be left alone with the recording equipment.

If the interviewee is not leaving the room

Do not switch off the audio recorder without a very good reason. Pause the interview and at the end of the break, state the time and resume the interview (consider re-cautioning and stating their other rights).

If the interview ee is leaving the room

Switch off the audio recorder. Remove the CDs. Seal one as a master copy and the other as a working copy. The client should sign the master CD seal. At the end of the break, open a new set of CDs and load them into the machine. Switch on the audio recorder, state the time and verify the persons present.

Get the client to confirm that nothing untoward has occurred and resume the interview. This constitutes a new interview, so this client must be re-cautioned and their rights given again.

Closing an Interview Under Caution

"Do you wish to clarify anything you have said? Do you wish to add anything?"

Closure action - required in all cases

"This is the notice I told you about at the start of the interview explaining what is going to happen to the CD(s)". Serve the CI12.

"I am now handing to Mr/Mrs xxxxxxx' a What happens next notice CI16".

"If you, or your legal representative, want a copy of the audio-recording it can be obtained at any time if the application is made in writing to the address on the notice I have just given to you".

If the interview is to be resumed, say something along the lines of:

"I may need to interview you again about this matter once I have obtained further documents or made further enquiries. Once the audio recording machine has been switched off I will ask you to sign a CD seal. One of the CDs will then be sealed in its box in your presence. The time is.....

[Time]. I shall now switch the machine off".

Ask the client to sign a CD seal and seal the master CD.

Scotland

2. Suggested script for the interviewer

Opening an audio recorded Interview Under Caution

"This interview will be audio recorded until conclusion and may be given in evidence if your case is brought before the court.

It is	[Time]
On	[Date]

We are in the interview room at	[Name of location]
I am	[Rank/Grade]
The other interviewer(s) present is/are	[Other interviewers to state their name, rank/grade]
Please state your full name	[Client to give their full name]
Also present is/are	[Each party to identify themselves and state their relationship to the claimant for example, solicitor / interpreter]
Do you agree there is no one else present in the room?	[Client to confirm]

The interview is regarding an allegation that you have [enter nature of allegation]

If you have a mobile phone I would like you to switch it off unless you are waiting for an important call. I am now obliged to give you a caution, the time is now.....

You are not obliged to say anything unless you wish to do so; however anything you say will be recorded and may be used in evidence.

Do you understand the caution?"

Explain in your own words if the client does not appear to understand or states that they did not understand what was said.

"You are not under arrest and are free to leave at any time. You may obtain legal advice if you wish. Do you wish to obtain legal advice?"

Only if the response is No, ask:

"Is there a reason why you do not wish to obtain legal advice? If you wish to seek legal advice at any time during this interview, let me know and I will stop the machine and suspend the interview to enable you to do so".

Continue

"Can you confirm that the Compact Discs (CDs) used for this interview are new and were unsealed in your presence? Prior to the audio recorder being switched on, can you confirm that it was explained to

you that you were to be Interviewed Under Caution regarding possible offences, for which legal proceedings may be taken”.

Put any significant statement/relevant or unsolicited comment made by the claimant in the Official Notebook and ask the claimant to sign it.

CD change

If more than one set of CDs are required the following procedure should be followed.

End of old CD

"The CD is coming to an end. The time is [Time]

I shall now switch the machine off.”

Start of new CD

"This is a continuation of an interview with [Name]

The time is [Time]

I will resume the interview. I must remind you that you are still under caution. Do you understand?" (If in doubt, re-caution in full).

Agree that no conversation took place in the break concerning the interview. If a conversation did take place, ask the client to repeat/recall what was said.

Consider stating for the purposes of the CD either:-

"There has been no change to the personnel in the room" or state what changes have occurred.

Ask the client to sign the Official Notebook equivalent if any unsolicited comments were made.

Special Circumstances

If anything happens which disrupts the recording always explain on CD what has happened stating times, reason, etcetera.

Interruptions

Interruptions should be discouraged. However, if it is necessary for someone to enter the interview room, they must identify themselves and state the reasons for the interruption.

Refusals

If this happens before the audio recorder is switched on, explain that this will provide a clear and undisputed account. Switch on the machine and introduce the interview normally.

If the client continues to object or objects during the interview, it is important that objections be clearly recorded.

Say "My instructions require that your objections are recorded on CD."

Once the objections have been recorded, or if the client will not speak, announce "I am switching off the audio recorder because "

State the time and switch off the machine. Package the CDs and continue interviewing using contemporaneous notes.

Productions

Always clearly describe the production. Remember the audio recorder cannot see!

Breaks in Interview

If it is necessary to have a break in an interview, the procedure depends on whether or not the client will leave the room. In either case, state the time and give the reason for the break.

If the client is not leaving the room

Do not switch off the audio recorder without a very good reason. At the end of the break, state the time and resume the interview (consider re-cautioning).

If the client is leaving the room

Switch off the audio recorder. Remove the CD. Seal one as a master CD and the other as a working CD. The client should sign the master CD seal. At the end of the break, open a new set of CDs and load the machine. Switch on the audio recorder, state the time and verify the persons present.

Get the client to confirm that nothing untoward has occurred during the break and resume the interview. This constitutes a new interview and the client should be re-cautioned.

Closing a audio recorded Interview Under Caution

State "Do you wish to clarify anything you have said? And/or "Do you wish to add anything?"

When the allegation is to be put, remind the claimant of the caution by saying

"You are not obliged to say anything unless you wish to do so; however anything you do say will be recorded and may be used in evidence."

Then read the allegation to the claimant.

State

"Once the audio recorder has been switched off, I will ask you to sign a CD seal. One of the CD will then be sealed in its box in your presence.

The time is..... [Time]

I shall now switch the machine off."

It is not a requirement in Scotland to give the client a written copy of the allegation. They can only obtain a copy of the audio recording or transcript from the Procurator Fiscal.

Silent interviews - England and Wales

3. Suggested scripts for the interviewer

Silence with Pre-Prepared Statement

"You have provided us with a written statement and have decided to not answer any questions in this interview.

However, I will still need to ask you questions and give you the opportunity to answer, in order to help us determine the extent of your involvement in the offence, which you are suspected of having committed.

In the caution which I gave you at the commencement of this interview I explained that you have the right to silence. I also explained that it may harm your defence if you do not mention when questioned something that you later rely on in court.

Do you still wish to exercise your right to remain silent?"

Silence following legal advice

"You have indicated that you intend to remain silent during this interview.

However, I still need to ask you questions and give you the opportunity to answer, in order to help us determine the extent of your involvement in the offence, which you are suspected of having committed.

In the caution which I gave you at the commencement of this interview I explained that you have the right to silence. I also explained that it may harm your defence if you do not mention when questioned something that you later rely on in court.

Do you still wish to exercise your right to remain silent?"

Silence without legal advice

"You have decided to not answer any questions in this interview.

However, I will still need to ask you questions and give you the opportunity to answer, in order to help us determine the extent of your involvement in the offence, which you are suspected of having committed.

In the caution which I gave you at the commencement of this interview I explained that you have the right to silence. I also explained that it may harm your defence if you do not mention when questioned something that you later rely on in court.

Do you still wish to exercise your right to remain silent?"

00 Introduction

Investigation policy

1. The Department for Work and Pensions (DWP) aims to target cases of serious fraud. The main aims of the policy are to obtain maximum publicity with a view to deterring people from committing benefit fraud and obtaining best value for money.
2. This means that in the majority of cases, DWP will target resources at cases where there has been a significant loss to public funds.
3. However, if the facts of the case are serious enough, DWP will seek to prosecute cases even where the loss to public funds is deemed to be relatively modest.
4. DWP aims to achieve as much media coverage as possible for prosecutions brought by the department in order to ensure that the coverage brings maximum deterrent effect.
5. Such media coverage helps to spread the message that benefit fraudsters will be caught and prosecuted before the criminal courts. For more information, see [Publicising Investigation Outcomes](#).
6. In England and Wales staff at Crown Prosecution Service, will determine whether a case is suitable for criminal proceedings in accordance with the Full Code Test in the Code for Crown Prosecutors. The Full Code Test embraces both the Evidential Test and the Public Interest Test.
7. In Scotland the Crown Office and Procurator Fiscal Service (COPFS) determines whether proceedings will be raised.

01 Deciding if prosecution appropriate

1. Counter Fraud and Compliance Directorate (CFCD) Team Leaders (TL) or Higher Investigations Leaders (HIL) must consider whether there are any matters in the case, before the case is sent to Crown Prosecution Service in England and Wales or referred to the Procurator Fiscal in Scotland. This should be taken into account when deciding whether the case should be submitted for criminal proceedings.
2. When deciding whether prosecution is appropriate, every case should be judged on its own merits.
3. When the gross overpayment is substantial, prosecution is normally the preferred course of action.
4. As a national guideline:
 - **[Redacted]**
5. If joint working with the Local Authority (LA) applies, add together the Department for Work and Pensions (DWP) and LA overpayments to arrive at the gross adjudicated overpayment figure.
6. **[Redacted]**
7. These circumstances could include the following:
 - **[Redacted]**
8. These examples are not exclusive or exhaustive and each case should be judged on its own merit.
9. For more information, also see [Administrative Penalties](#) and [Cautions](#)

Cases not suitable for prosecution

Social factors

10. If any social factors, which make a prosecution undesirable, are identified during the course of the investigation, but before the Interview Under Caution (IUC) letter issued to the claimant, transfer the case to Compliance for action.

11. This includes cases received from Compliance because of new and substantial information being received prior to a Compliance interview being undertaken.

12. The actions to refer a case to LSC must be recorded on FRAIMS, see FRAIMS guidance - Downgrading a case.

13. If any of the following factors are discovered during the course of the IUC closure will be appropriate:

- [Redacted]

Juveniles

14. Being a young offender does not automatically prevent proceedings from going ahead.

15. For example prosecution may be desirable when:

- [Redacted]

16. For further information, see Juveniles.

Mental or physical conditions

17. The Code for Crown Prosecutors (paragraph 4.12 (b)) ([link is external](#)) explains that it may not be in the public interest to prosecute if the suspect is, or was at the time of the offence, suffering from significant mental or physical ill health.

18. As a general rule, when the offence is serious, or is or has been repeated, the public interest will favour prosecution. Ultimately, it will be a matter for the prosecuting authority to determine whether it is desirable to institute criminal proceedings in cases where the suspect is or has suffered from significant mental or physical ill health.

19. If before the Interview Under Caution (IUC) letter has been issued to the claimant the investigating officer and/or Team Leader (TL) or Higher Investigations Leader (HIL) is of the opinion that the mental or physical health of the suspect or partner is such that prosecution is not desirable. The investigating officer should transfer the case to Compliance for action
Transfer to Local Service Compliance

20. This includes cases received from Compliance as a result of new and substantial information being received prior to a Compliance interview being undertaken.

21. Where the suspect is pregnant and confinement is either due within three months or she is not in good health, it may be appropriate to defer consideration of a departmental fraud penalty until after she has given birth, but this must be subject to statutory time bar considerations.

22. For more information, see Prosecution File Preparation.

23. If a significant mental or physical condition is suspected at any stage of the investigation, for example:

- referral stage

- prior to evidence gathering
- during or after evidence gathering
- during a pre Interview Under Caution (IUC) advice meeting with the Team Leader (TL) or Higher Investigations Leader (HIL), which suggests that prosecution is undesirable.

The TL / HIL in consultation with the investigator will decide whether to:

- continue with the investigation
- continue to establish verifiable up to pre IUC stage, and refer to Decision Maker
- close the investigation and record the appropriate outcome.

If a mental health condition is identified but there are reasonable grounds to suspect fraud, an appropriate adult (friend, relative, professional) must be identified and be present at the IUC. If the IUC has already begun, it must be halted until an appropriate adult has been identified and is present.

If a mental health condition is identified pre/at Compliance interview, an appropriate adult (friend, relative, professional) must be identified, and be present at the interview.

If a claimant is not fit to be interviewed at IUC without an appropriate adult then they are also not fit to be interviewed at Compliance without an appropriate adult, and these cases must not be transferred to Compliance. Investigators should consider which steps to take above from this paragraph.

24. The significant mental or physical conditions could include the following:

- **[Redacted]**
- 25. Details of the appropriate action taken must be recorded on FRAIMS if the decision is to recommend closure of the investigation. See FRAIMS guidance – Closure approval (Non fraud penalty Outcome) .

02 Restorative justice

Introduction

1. Restorative justice is to:

- hold offenders to account for what they have done
 - help them understand the real impact of their actions and
 - take responsibility for those actions.
2. It brings together those harmed by crime or conflict with those responsible for the harm, to find a positive way forward.

3. In criminal justice, restorative processes gives victims the chance to:

- tell offenders about the real impact of their crime
- get answers to their questions
- receive an apology.

Approaches to Fraud and Error Service

4. There may be occasions where an investigator involved in a case is approached by the Probation Service or other organisation, which is a member of the Restorative Justice Council, to take part in the restorative justice process.

5. The Department for Work and Pensions (DWP) is the victim or injured party in benefit fraud offence scenarios, in that the overpayment is against the department.

6. It is not appropriate for an investigator to participate in the restorative justice process as a representative of the department, and therefore must decline any approach made by the Probation Service.

Joint Working

00 Introduction

This section aims to facilitate joint working between the Counter Fraud and Compliance Directorate (CFCD) and other organisations that investigate fraud.

The significant common claimant base provides considerable opportunities for specific jointly worked exercises and more general partnership working to successfully tackle Counter Fraud and Compliance.

The aim is to develop and support effective joint working and share good practice in a collaborative and helpful manner. It is important that all joint and partnership working is carried out within the current legal framework.

Joint Working Protocol

It is important that all investigators are familiar with the CFCD [Joint Working Protocol \(link is external\)](#) when working jointly with another Organisation. This explains the roles and responsibilities of the various Government Departments and Agencies. This will also enable investigators to identify possible offences that may be of interest to other organisations. Specific Joint Working Protocols with local links may apply.

Disclose any information that is of interest to the other Department or Organisation in accordance with the Protocol.

Partner Agency or Department Interests

Where Joint Working is not applicable but other agencies or departments have a legitimate live interest (Such as a Local Authority within a SFI area), then the contact details will be entered into Fraud Referral and Intervention Management System (FRAIMS) under 'Other Partners' but the Joint Working Marker will not be ticked.

01 Advantages of Joint Working

Advantages of joint working

There are a number of practical advantages to conducting joint investigations which include:

- increasing efficiency by reducing duplication of effort for example, surveillance, intelligence gathering, etcetera
- maximising use of resource and equipment
- ensuring full extent of offending placed before the courts
- reducing burden on businesses by not asking for the same information twice
- the mentoring of less experienced officers
- increased opportunity to gain expertise
- increased understanding of other organisations procedures
- sharing good practices
- eradicating the need to conduct separate interviews
- increasing technical knowledge of benefits or other law enforcement responsibilities maximises the likelihood of a successful outcome.

Aims and objectives

The main aims of an effective partnership are:

- commitment to maintain regular effective communication on operational and performance matters that impact on the prevention, detection and sanction of benefit fraud
- joint working activity that sees expertise, intelligence and resource shared to secure more effective outcomes from fraud activity
- the effective exchange of information in support of fraud activity
- to identify the necessary steps to be taken to correct benefit
- to support each organisation to enable it to follow procedures and comply with legislation

02 Joint Working with Local Authorities

National Fraud Partnership agreement

Jobcentre Plus External Relations and Communications, Partnership Division is responsible for negotiating, consulting and agreeing the Partnership Agreement for Benefit Administration, Security and Fraud between Jobcentre Plus and Local Authorities (LAs). This is in association with the Practitioners Operational Group (POG), Security Operations Group (SOG) and the Department for Work and Pensions (DWP)/Local Authority Association (LAA) Steering Group.

This sets out high-level standards for partnership and joint working between Counter Fraud and Compliance Directorate (CFCD) and LAs when investigating benefit fraud. Although it is not a legally binding document, it outlines the principles both organisations adopt and highlights the procedures to be followed in cases of exception.

It is particularly important that CFCD and LAs are seen to be adopting a common approach, particularly in the area of prosecution policy. This is because both organisations are able to investigate and prosecute National and Local Benefit offences in England and Wales (E&W). In Scotland, the Crown Office Procurator Fiscal Service undertakes prosecutions.

Following the introduction of Sections 46 and 47 of the Welfare Reform Act 2007, LAs are now able to investigate and prosecute national benefit offences where there is also a suspicion at the outset that offences have been committed involving Housing Benefit (HB) and or Council Tax Benefit (CTB) (prior to 1 April 2013). The national benefits that LAs are able to investigate and prosecute are:

- Income Support
- Job Seekers Allowance
- Incapacity Benefit
- State Pension Credit
- Employment and Support Allowance

The national Fraud Partnership Agreement (FPA) and associated processes can be supplemented with local agreements.

It is strongly recommended that services between each LA and local CFCD team are negotiated and agreed at a local level. This ensures that local issues and implications are reflected, including the differing structures, policies and procedures of individual LAs.

Any local agreement must support the values and principles of the national FPA and reflect the agreed requirements.

Local agreements aimed at addressing issues specific to those areas can be arranged. These can include issues such as local joint working arrangements, local policy on publicity and to generally encourage or enhance local working arrangements.

Within Single Fraud Investigations area, HB or CTR offences still require details of the associated Local Authority interests to be recorded, but the Joint Working Marker will not be ticked.

Joint Boards

District External Relationships Managers (DERMs) are responsible for local liaison between Jobcentre Plus and Local Authorities (LAs) on benefit administration and fraud issues concerning cases where both National DWP benefits and Housing and Council Tax Benefits (prior to 1 April 2013) are claimed.

Whilst DERMs act as a single contact point for LAs, most day-to-day issues are handled through direct contact between CFCD and LA investigators. Escalate issues that cannot be resolved at this level to the DERM for resolution.

In the main, Joint Boards between Jobcentre Plus and LAs operate at District level. Meetings are normally jointly chaired by the Jobcentre Plus District Manager and a LA counterpart. They are held at least bi-annually.

Their responsibilities include:

- reviewing local working arrangements covered by the Partnership Agreement for Benefit Administration and Security and Fraud
- monitoring performance across each organisation
- agreeing solutions to problems that cannot be resolved through day-to-day contacts
- identifying and sharing good practices and
- sharing information on new developments within policy and processes that impact on each organisation

Normally, single meetings deal with both fraud and administrative matters although for operational reasons it may be necessary occasionally to hold separate meetings regarding the two functions.

Liaison between CFCD Team Leaders or Higher Investigations Leaders and Local Authority Investigation Managers

It is important that CFCD Team Leaders (TL) and LA Investigation Managers meet on a regular basis to discuss and agree procedures specific to local requirements and comply with the aims and objectives of specific joint working investigations. They also monitor the effectiveness of any local agreements made.

The following are issues that TL and LA Investigation Managers must consider and agree jointly:

- responsibility for proceedings and identify who would prosecute
- the criteria for identifying cases suitable for joint proceedings action
- authorisation of surveillance
- the criteria for deciding location of interviews
- the criteria that will apply for each fraud penalty and the liaison arrangements where it is proposed to take fraud penalty action outside of the agreed criteria

- dealing with claimant contact, the lead investigator being the nominated officer for claimant contact
- the standard for prosecution file preparation
- the appointment of a Single Point of Contact (SPOC) who act as Liaison Officer for contact and monitoring compliance with agreed procedures. The SPOC will arrange for relevant documentation to be forwarded when the offer to joint work is declined

If the Counter Fraud and Compliance Directorate (CFCD) are unable to resolve an issue through normal management routes, it must be referred to the District External Relationships Manager (DERM) who liaises with the relevant LA Head of Service, to ensure information is provided to enable a resolution.

If LAs are unable to resolve the issue through normal management routes, the matter must be referred to the DERM who provides appropriate information to resolve the issue.

Joint Working arrangements with Local Authorities

Not all cases where Department for Work and Pensions (DWP) and Local Authority (LA) benefits are in payment justify the involvement of both organisations and the following factors must be considered:

- are both DWP and LA benefits affected by the alleged fraud?
- available resources

It is important to identify suitable cases for joint investigation as soon as possible.

The lead organisation normally is the one receiving the allegation. The other organisation may take the lead if the overpayment against them is likely to be the greater.

Joint investigations are appropriate where:

- it appears at the outset that there is likely to have been an overpayment of benefits administered by both DWP and LA and
 - a fraud penalty by way of prosecution, administrative penalty or caution appears possible
- Housing Benefit or Council Tax Benefit (prior to 01/04/2013) (HB or CTB) offences do not require joint working arrangements in Single Fraud Investigations (SFIS) areas.

However, RM7 checks are mandatory in all SFIS cases when referring for a decision to the LA DM.

Complete [RM7 Sensitive Material](#) action in all cases. Details of the RM7 check must be noted on the FRAIMS by the investigator and verified by the Team Leader (TL).

Joint working considered at the start of the investigation

As soon as possible after receipt of the case, or referral in the case of an LA, you must issue the FPA1 form to the other organisation when joint working is considered appropriate at the start of the investigation. The FPA1 is available via the Fraud Referral and Intervention Management System (FRAIMS). See [FRAIMS guidance – Joint working - CFCD initiates the request](#).

The FPA1 includes a request for documents required to progress the investigation. Where the organisation receiving the FPA1 declines the offer to jointly investigate, it should arrange for the appropriate documentation to be forwarded to the issuing organisation. In Counter Fraud and Compliance Directorate (CFCD) this will be done via the Single Point of Contact (SPOC).

The organisation invited to work jointly must complete the reply section on the FPA1 and return it within 10 working days of receipt. See [FRAIMS guidance – Joint working - Record the LA response](#).

If CFCD declines the offer to jointly investigate, they will complete the response section and forward the FPA1 to the SPOC.

The SPOC will confirm, by forwarding a copy of the FPA1 to the nominated officer within the appropriate benefit delivery organisation, that the FPA1 has been received.

The nominated officer will be responsible for forwarding the requested documentation to the Local Authority (LA). Any further requests for documents that may be required will be made by the LA direct to the nominated officer.

The SPOC will return the original FPA1 to the LA investigator within 10 days of receipt informing the LA that the forms/documents have been requested.

When it is decided that joint working with the LA is to be undertaken, record this in the **Cases - More Info** view on FRAIMS. See [FRAIMS guidance – Joint Working – Recording the joint working indicator](#).

If CFCD receives an allegation or query that would only affect Housing Benefit or Council Tax Benefit (prior to 1 April 2013) (HB or CTB) or the LA receives an allegation or query that would not affect HB or CTB (prior to 01/04/2013), the matter must be referred to the other organisation on the FPA2 form.

Joint working considered at the Interview Under Caution stage

There may be cases when it is advantageous for the lead organisation to obtain the evidence required and for joint action to commence at the Interview Under Caution (IUC) stage of the investigation.

This could be due to resources or where the evidence gathering process consists simply of a request for wage details from an employer. Also the second organisation may have indicated on the FPA1 form that they did not wish to participate in joint working at the start of the investigation.

In these cases the lead investigator must issue the FPA3 form to the other organisation who, in most cases, must complete and return it within 10 working days.

However, there are cases when the interview needs to take place before the 10-day deadline. The FPA3 form must still be issued, but the lead investigator must also contact the investigator in the other organisation by telephone to:

- ascertain whether they are willing to be present at the interview and
- negotiate a date and time suitable to both parties

The details of the issue of the FPA3 form and any telephone calls must be recorded on the Fraud Referral and Intervention Management System (FRAIMS). See [FRAIMS guidance – Joint Working - CFCD initiates the request](#).

Joint Interview Under Cautions (UCs) must not be conducted where there is an element of Council Tax Reduction fraud involved. See [Council Tax Reduction](#).

Obtaining evidence

Where a joint Interview Under Caution (IUC) is undertaken, each investigator will be responsible for securing the appropriate documentation required from their own organisation such as claim forms, review forms and other correspondence. Where a joint IUC has been offered and rejected, the investigator should ensure all evidence is obtained from the other organisation to allow all benefit offences to be covered at the IUC.

There is no requirement to duplicate information so that it is in a format recognisable to the other organisation. For example, an employer statement on a Local Authority (LA) produced form should be treated as the equivalent of an EQ1 form for DWP purposes and vice-versa.

Joint surveillance

If CFCD are leading in the surveillance operation with the Local Authority (LA), DWP will consider authorisation on behalf of both organisations. See [Applying for Directed Surveillance Authorisation](#).

Sections 32A and 32B of the Regulation of Investigatory Powers Act (RIPA) 2000 inserted by section 38 of the Protection of Freedoms Act 2012 requires Local Authorities in England and Wales are required to obtain judicial approval to carry out directed surveillance or covert human surveillance.

This means that if the LA in England and Wales is leading in the surveillance operation, an order under section 32A of RIPA approving the LA Manager's authorisation must be obtained from a magistrate.

The above provisions do not apply to LAs using the Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) in Scotland. This means that LAs using RIP(S)A do not require judicial approval.

For more guidance about carrying out joint surveillance with other organisations, see [Surveillance](#).

Council Tax Reduction

From 1 April 2013, the Local Government Finance Act 2012 placed responsibility on Local Authorities (LAs) to devise their own local replacement schemes for Council Tax Benefit. This is known as Council Tax Reduction and applies differently to England, Scotland and Wales.

Council Tax Reduction is part of the council tax system and is not a Social Security benefit or allowance, as defined under Social Security legislation. There are no legal powers for the Department for Work and Pensions to investigate Council Tax Reduction fraud. Authorised Officer powers under s109 of the Social Security Administration Act 1992 do not apply to Council Tax Reduction.

Responsibility for the investigation and prosecution of Council Tax Reduction sits with the LAs.

CFCD can request Council Tax Reduction documents in support of an investigation into Social Security benefit fraud. Requests made under the Data Protection Act (DPA) 2018 would be for individual LAs to consider whether disclosure was appropriate in accordance with their legal data sharing provisions and the DPA 2018.

The purpose of obtaining such documents would be to support a CFCD investigation into other benefit offences, not to enable CFCD to investigate Council Tax Reduction.

The Social Security (Information-sharing in relation to Welfare Service etcetera) Amendment and Prescribed Bodies Regulations 2012 allow for Social Security information, which is relevant to Council Tax Reduction purposes, to be shared with LAs. Council Tax Reduction purposes include preventing, detecting, securing evidence of, or prosecuting the commission of, an offence relating to Council Tax Reduction.

Housing Benefit only cases

If no further action is to be taken, the case must be returned to the Local Authority (LA) by completing Part 8.1 of the Local Authority Information Exchange Form (LAIEF), attaching the appropriate information.

If the case is transferred to Compliance teams, complete Part 8.2.

Publicity

Consider whether or not the fraud investigation will attract:

- media publicity, local or national
- criticism of the Local Authority (LA), the Department or its Ministers
- publicity in sensitive benefit areas such as Disability Living Allowance (DLA) or Personal Independence Payment (PIP)

If any of the above seems likely, follow the instructions in [Publicising Investigation Outcomes](#)

03 Financial Investigations and Joint Working

Considerations

1. Financial investigations must always be considered when joint working with other agencies. For further information about the criteria to follow for the selection and submission of suitable cases, see [Financial Investigations](#).

2. Where existing Partnership Agreements and Memoranda Of Understanding (MOUs) provide a direction these must be adhered to. In general practice there is an understanding that where the Department for Work and Pensions (DWP) has the lead role in investigation, the Financial Investigation Unit (FIU) also takes the lead in the asset recovery.

3. Where necessary, the FIU Higher Intelligence Leader (HIL) will construct a Statement of Intent to describe the role and remit of FIU in any particular case.

4. At present there is no Partnership Agreement between FIU and Local Authorities (LAs). Some LAs have their own financial investigators, or use police and Crown Prosecution Service (CPS), others do not. The practice therefore varies across the country.

Financial Investigation Unit and LAs

5. FIU have a policy that, where they are seeking confiscation which includes Housing Benefit/Council Tax Benefit (prior to 1 April 2013) (HB/CTB), the FIU always tries to obtain a compensation amount that is paid to the LA direct, either by way of a separate order or within the main confiscation order.

6. This can only be done if a compensation amount is identified specifically for the LA concerned. FIU brief Crown Prosecution Service (CPS) to this effect where this applies.

- **7. [Redacted]**

8. It is therefore essential that there is an understanding with the appropriate authority and COMP1 is completed with joint agreement from the outset. FIU notifies the LA of any award using COMP2.

9. The COMP3 is issued to the Court to ensure that monies are paid to the correct authority.

10. FIU undertakes financial investigations on behalf of the LA where the Department for Work and Pensions are the lead in a joint investigation. No monetary limit has been placed as a referral criterion for LAs and each case is considered on its own merits

04 Joint Interviews Under Caution

Professionalism in Security accreditation

1. The majority of investigators are now accredited through the Professionalism in Security (PinS) accredited training programme. Local Authorities (LAs) have the option to use alternative providers who train fraud staff to a standard equivalent to PinS.

2. Non-completion of PinS, or its equivalent, is not a bar to participation in an Interview Under Caution (IUC). The suitability of an officer to undertake an IUC depends upon what learning they have received or their investigative experience.

3. Inexperienced or untrained investigating officers should not conduct IUCs. In these circumstances the IUC should be conducted by officers who have the requisite training or experience.

Planning a Joint Interview Under Caution

Planning meeting

4. It is necessary to hold a meeting before the Interview Under Caution (IUC) in order to preview the evidence held and decide on a strategy for conducting the interview.

5. The lead interviewer does not have to be the investigator from the organisation who prosecutes the case, or in Scotland, refers the case to the Procurator Fiscal (PF) for prosecution.

6. There may be situations when one of the investigators has more experience or technical ability making them better suited to deal with evidence to be presented. However, the opportunity to act as lead interviewer may be beneficial to the personal development of the less experienced investigator.

Recording equipment and audiotapes

7. Either organisation can provide the audio recording equipment, audiotapes or seals providing that these items are suitable.

Location

8. The location of the IUC is decided between the two organisations but does not have to be at the office of the lead officer.

Notification of IUC

9. The lead organisation should take responsibility for the issue of the interview appointment letter using their headed notepaper and contact points. The letter should make clear the venue of the interview particularly if this is the other organisation's premises.

10. There is no requirement to alter the wording of the letter to take account of the fact that a joint interview is to be conducted. Once the location is agreed, details of the scheduled IUC must be recorded on FRAIMS, see [FRAIMS guidance – Joint Working - Joint Interview Under Caution appropriate](#)

Action during joint IUC

11. During the planning stage of the Interview Under Caution (IUC), it should be decided between the Counter Fraud and Compliance Directorate (CFCD) and Local Authority (LA) investigator what their individual roles are to be.

12. This could include whether the CFCD investigator questions the claimant about all benefits and the LA investigator acts as the second officer or each officer restricts their questioning to the benefits administered by their respective organisations.

13. At the beginning of the interview and prior to any questioning the lead investigator should introduce all officials present and explain their role.

14. Wherever possible both officers should be present in any subsequent interviews following suspension of the original interview.

15. At the end of the IUC, unless it is necessary to suspend the interview due to outstanding issues that need to be investigated further, an allegation should be put to the claimant to cover all benefits affected by the alleged offence.

16. For further information about introductions prior to conducting an IUC, see [Conducting the IUC](#).

Notebook entries

17. Investigators in each organisation should hold an official notebook. Entries in the notebooks must be in accordance with the procedures contained in [Entries in Official Notebooks](#).

Action following joint IUC

18. Following the joint Interview Under Caution (IUC) the Counter Fraud and Compliance Directorate (CFCD) investigator arranges for decisions and overpayment calculations on the Department for Work and Pensions (DWP) administered benefits, see [Decision Making](#).

19. The Local Authority (LA) investigator arranges for decisions and overpayment calculations for Housing Benefit/Council Tax Benefit (prior to 1 April 2013) (HB/CTB) in accordance with their policy.

20. The CFCD investigator must record a summary of the IUC on FRAIMS, see [FRAIMS guidance – Claimant attends the interview](#).

21. Once the relevant decisions have been made it is important that each organisation notifies the other of these on the FPA4, and refer the cases for consideration of a fraud penalty, see [FRAIMS guidance – Joint working with LA – CFCD initiates the request](#).

05 Case Outcomes and Fraud Penalties

Recording outcomes

1. Local Authorities (LAs) must forward details of fraud penalty outcomes of all investigations they complete, whether they involve a Department for Work and Pensions (DWP) benefit or are investigations into Housing Benefit/Council Tax Benefit (prior to 1 April 2013) (HB/CTB) only on the FPA6.

2. The FPA6 is submitted by the LA to their appropriate Fraud and Error Service (FES) team office with the details of the outcome if a fraud penalty has been applied to the claimant. If no fraud penalty is applied the LA submit an FPA5.

3. On receipt of the FPA4, 5 or 6 the appropriate FRAIMS user must record the details provided by the LA on the case on FRAIMS, see [FRAIMS guidance – Joint working - LA outcome notification received](#).

Considering a Fraud Penalty

4. Although Local Authorities (LAs) can prosecute, in Scotland refer for prosecution, or offer an alternative fraud penalty in relation to Housing Benefit/Council Tax Benefit (prior to 1 April 2013) (HB/CTB) independently of what Counter Fraud and Compliance Directorate (CFCD) decide, it defeats the aims and objectives of joint working and should be avoided if possible.

5. Agreement should be reached on the suitability of a case for a fraud penalty and what that penalty should be. When considering a Caution or Administrative Penalty (Ad-Pen) as an alternative to prosecution the case must be prosecutable by meeting the criteria in the:

- Code for Crown Prosecutors (England and Wales (E&W)) or
- Crown Office and Procurator Fiscal Service (COPFS) Prosecution Code (in Scotland).

Note: A Caution can no longer be offered by the Department for Work and Pension (DWP) on cases where the offence is committed wholly on or after 1 April 2012, or the period of the offence spans before and after the 1 April 2012. A Caution can still be offered on cases handled after 1 April 2012 where the offence was committed wholly before 1 April 2012.

6. For more information, see [Prosecution Policy](#).

7. Once a decision has been made that a fraud penalty is appropriate, the FPA5, must be sent by the lead investigator to the other organisation within 10 working days of the decision, see [FRAIMS guidance – Joint Working - CFCD initiates the request](#).

8. On receipt of the FPA5 the other organisation must immediately complete the reply section and return to the lead investigator.

Considering a Caution or Administrative Penalty

- 9. Unless exceptional circumstances apply, DWP policy is that, if the total overpayment including HB/CTB (prior to 1 April 2013) **[Redacted]**

10. This requires that the case be of a prosecutable standard being evidentially sound and in the public interest to prosecute.

11. The LAs may have their own policy on Cautions and Ad-Pens, which varies between different authorities and may also be different to DWP policy.

12. In these cases an attempt should be made to reach agreement to enable the case to be progressed in accordance with DWP policy. Information concerning previous fraud penalties that are held on FRAIMS can be exchanged with the LA during the agreement process.

13. Where the LA independently investigates a case and require information about current live cases, previous outcomes, fraud penalties and dates of closure, they will request the information by e-mail which is sent directly to FRAIMS, to a specific e-mail address.

14. The e-mail must contain the National Insurance Number (NINo) of the person they are requesting the information about. LAs can only request information for one NINo at a time.

15. When a C-Pen is received check that there is an on-going investigation recorded on FRAIMS, see [FRAIMS guidance – Joint Working - Request for information about previous Cautions and Ad Pens](#).

16. The two organisations can only make the decision to offer a fraud penalty for benefit administered by them.

17. If the decision is that an Ad-Pen is appropriate, the lead organisation can issue a penalty on behalf of the other by using delegation of functions.

18. Record this action on FRAIMS, see [FRAIMS guidance – Delegation of functions – Cautions & Administrative Penalties](#).

19. For further information on delegation of functions, administration and notification of cautions, see [Cautions and Local Authorities](#).

20. For further information on delegation of functions and the administration and notification of Ad-Pen, see [Administrative Penalties and Local Authorities](#).

Prosecution appropriate

21. In joint investigations in E&W where CFCD are the lead organisation, the Crown Prosecution Service (CPS) will prosecute all DWP offences including HB/CTB (prior to 1 April 2013).

22. In joint investigations in E&W where the LA is the lead organisation they can use their own prosecutors.

23. The lead organisation prepares the file for prosecution as outlined in [Preparing the Prosecution File](#).

24. In Scotland, the decision to prosecute rests with the Procurator Fiscal.

Prosecution not appropriate

25. In joint investigations in E&W, or DWP only investigations where HB/CTB (prior to 1 April 2013) has been paid, the LA must be notified in writing where prosecution action is not being taken against the claimant. The LA may consider prosecuting HB/CTB only related offences.

26. The LA must be advised of the reasons given by CPS, under the Code for Crown Prosecutors, as to why prosecution is not considered appropriate. Extracts from the MG3 detailing the decision of CPS not to prosecute should be provided to the LA. Do not send the MG3, or a complete copy, to the LA.

27. The Criminal Procedure and Investigations Act (CPIA) 1996 imposes a statutory duty on investigators and prosecutors to disclose material, which may undermine the prosecution case or assist the defence.

28. A decision by the CPS not to prosecute a case, either due to insufficiency of evidence or where it is not in the public interest, must be disclosed to the defence prior to a plea being entered.

29. Failure to disclose the reasons for non-prosecution is a breach of duty under CPIA 1996 and could lead to a successful abuse of process argument by the defence on the grounds of non-disclosure.

30. Under no circumstances must DWP investigators recommend for the case to be taken forward for prosecution by LA solicitors.

Obtaining Secretary of State Certificates

31. If the total overpayment does not exceed £20,000, CPS will deal with the matter as a summary offence under Section 112 of the Social Security Administration Act (SSAA) 1992.

This will mean that if the offence occurred more than 12 months prior to the issue of the requisition the case will be time-barred without a Secretary of State Certificate issued in accordance with s116(3) of SSAA.

32. If CPS decide that a time-barred case can be prosecuted they will take the following action;

For DWP offences

33. A Secretary of State Certificate will be considered for authorisation by a Senior Investigation Leader (SIL) from the date the Team Leader (TL) / Higher Investigations Leader (HIL) recommends there is sufficient evidence to justify a prosecution for an offence.

34. SILs should apply a presumption that the sufficiency of evidence date coincides with the date that the decision that benefit overpayment is deemed to be recoverable (DL ORG7) is received by CFCD. See [Preparing the Prosecution File - Offences subject to time-bar](#).

35. Requisitions will have to be issued within three months from this date.

For LA offences prosecuted by the Crown Prosecution Service

36. Where LA HB/CTB (prior to 1 April 2013) offences are time-barred, the prosecution file must include a completed and signed section 116 Certificate from the LA. Under section 116 of the Social Security Administration Act (SSAA) 1992, the DWP cannot issue a Secretary of State decision for time-barred LA offences, therefore the certificate for HB/CTB offences must be issued by the LA.

37. The LA section 116 Certificate should state the date on which sufficient evidence came to light to justify a HB/CTB (prior to 1 April 2013) offence. The three month period should run from that date.

DWP offences where LA offences also committed

38. In those cases where the LA overpayment decision post-dates the DWP overpayment decision date, and consequently, the Team Leader (TL) / Higher Investigations Leader (HIL) is awaiting overpayment decision details from the LA in relation to HB/CTB (prior to 1 April 2013), the date the TL / HIL may have sufficient evidence upon which to recommend that the DWP case be prepared for prosecution/proceedings will be the date CFCD received the LA overpayment decision.

39. It will remain the responsibility of the TL / HIL / investigator to ensure that delays are kept to a minimum. Proactive enquiries should be made to the LA, so that the HB/CTB overpayment calculation is prepared timeously.

40. Enquiries must be documented in the case chronology, so that the prosecuting authority reviewing the case can determine whether there has been any unreasonable delay or periods of inactivity.

41. Joint cases will contain evidence of both HB/CTB (prior to 1 April 2013) and DWP offences, but if both sets of offences are time-barred and a section 116 Certificate is necessary, two separate certificates will be required.

- 42. Where a case has a DWP overpayment **[Redacted]** but the calculation of the LA overpayment will cause sufficient delay to either fail the time bar date or make the use of the Secretary of State Certificate inappropriate, the case should be referred for prosecution without the LA overpayment.
- 43. A judgement will need to be made where the LA overpayment could take the total overpayment to **[Redacted]** and consequently make the case suitable for either way offences. In such a scenario the LA overpayment should be included and submitted as an either way case where in these circumstances a Secretary of State Certificate will not be required.
- 44. Where a case has a DWP overpayment that is **[Redacted]** but the LA overpayment will bring the total overpayment to more **[Redacted]** the sufficiency of evidence date will be

deemed to be when CFCD receives the confirmation of the recoverable amount of the LA payment.

Court hearings

45. For information about court hearings, see [Court Hearings \(England and Wales\)](#) or [Court Hearings \(Scotland\)](#).

Loss Of Benefit provisions following a Local Authority investigation

46. The appropriate FPA7 must be completed and sent to the Local Authority (LA) investigator to consider a Loss Of Benefit (LOB) penalty if the investigation resulted in the following:

- a Caution
- an Administrative Penalty or
- a conviction for a benefit offence.

For further information see [Loss of Benefit Provisions](#).

06 Joint working with Her Majesty's Revenue and Customs

Introduction

1. The Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC) must consider joint working at the start of an investigation where there is a shared interest.

2. The DWP Tax Credit Desk (DWP TCD) has responsibility for managing the tax credit joint working process for HMRC.

Joint working with Her Majesty's Revenue and Customs on tax credit cases

3. The 2 main sources of tax credit fraud referrals are:

- [Redacted]

4. HMRC inspired cases considered suitable for joint working by HMRC will be sent from HMRC direct to the Counter Fraud and Compliance Directorate (CFCD) SPOC at the DWP Tax Credit Desk (DWP TCD), who sits within Central Criminal Investigation and Intelligence Service (CCIIS).

5. All other tax credit fraud referrals will be routed on the Fraud Referral And Intervention Management System (FRAIMS) to the Case Preparation Team following completion of the Fraud Referral Form.

Criteria required for all referrals to the DWP Tax Credit Desk

6. The following criteria are appropriate for all tax credit fraud referrals:

- [Redacted]

7. Notional entitlement is calculated by determining the amount of tax credits that would have been paid if the customer declared their true circumstances against the amount actually paid.

- 8. The DWP TCD will consider any notional tax credit entitlement for CFCD cases. If the overpayment, after calculation of any notional tax credit, [Redacted] the case is suitable for investigation. **Note:** this does not apply to SOC cases.

9. It is a criminal offence for a person to fail to report a change of circumstance to Her Majesty's Revenue and Customs (HMRC) if the change results in tax credits being reduced or stopped because:

- **[Redacted]**

10. Her Majesty's Revenue and Customs (HMRC) require that the above changes must be notified within one month of the date the change occurred.

11. If a case under consideration for a tax credit offence is for the current tax credit award **only**, it will not be suitable until after 31 July, unless the claim was found to be false from the outset or the offences cover more than one year's tax credit award.

12. The Customer Information System (CIS) must be checked for benefit details, including whether the offence type will affect the Department for Work and Pensions (DWP) benefit and tax credit.

13. For unsolicited referrals, CIS will be checked as part of the Case Preparation Team activities. If further tax credit information is required after checking CIS, the DWP TCD RER Team will check tax credit systems.

14. For HMRC inspired referrals, the DWP Tax Credit Desk (TCD) will check appropriate HMRC systems and provide details in the referral on the Fraud Referral And Intervention Management System (FRAIMS).

[Redacted] **Example 1**

- **[Redacted]**

Example 2

- **[Redacted]**

Example 3

[Redacted]

Example 4

- **[Redacted]**

Living together referrals

15. Allegations of Living Together As a Married Couple (LTAMC) which include a tax credit element will be considered where the following criteria is met:

- **[Redacted]**
- 17. Earnings above **[Redacted]**
- However, the following cases should be referred to the DWP Tax Credit Desk (DWP TCD):
- if the salary cannot be determined
- the Alleged Partner (AP) is self employed
- the claimant is found to be working, which hasn't been declared, and / or the AP has more than one declared employment

18. If the AP is self employed, the DWP TCD will check HMRC Self assessment record and use this data to determine potential TC overpayment .If the DWP TCD are unable to quantify earnings the cases are rejected at this stage. The Investigator must re-refer the case to the DWP TCD if self-employed earnings or profit and loss accounts become available during the investigation.

Undeclared working referrals

- 19. Following consideration of a notional calculation of tax credits, the combined overpayment of DWP benefits, Housing Benefit or Council Tax benefit (HB or CTB) and tax credits is likely to **[Redacted]**

Undeclared capital referrals

- 20. Capital does not affect tax credits but the taxable interest or income from that capital does, although the first **[Redacted]**

Undeclared student loan referrals

21. Income received from student loans do not affect TC and these cases are not suitable for JW.

Collusive Child Care Providers

22. Information and evidence of Tax Credit customers, and children being cared for by the alleged collusive Child Care Providers can be obtained from HMRC via the DWP TCD. The investigator will create a FRAIMS activity to the DWP TCD to request the required information. See FRAIMS Guidance - [Joint working with HMRC](#) for details of the FRAIMS activity required.

23. To request details, the DWP TCD officer will email **[Redacted]** with the subject heading 'DWP CCP Request' and update the FRAIMS activity with the date the email is issued.

24. HMRC Organised Attack team will conduct the necessary checks and provide the requested information within the legal gateways. This will be sent to the DWP TCD.

25. The DWP TCD will provide the information to the requesting officer via email and update FRAIMS activity. The data held by TCD will be deleted after 30 days due to HMRC Data Protection (DP) requirements.

Child dependency referrals

26. Tax credit offences in child dependency cases will be considered where:

- the claimant is in receipt of tax credits and
- the allegation states the child who forms part of the tax credit award, is not living with the claimant.

Children in care referrals

27. Tax credit offences for children in care will be considered where the following criteria is met:

[Redacted]

28. Details of the Child Care Order should be obtained from the local authority and referred to the DWP Tax Credit Desk (DWP TCD) at the earliest opportunity to establish whether Child Tax Credit is affected by the Care Order.

29. The DWP TCD must ensure they have details of the Care Order and will check the latest HMRC guidance to confirm the case is suitable for joint working, such as the child is in receipt of Disability Living Allowance and the Care Order is voluntary due to respite care or health reasons.

30. Once the DWP TCD have confirmed that tax credits are affected and the amount of the potential overpayment, details of the case and the written evidence obtained from the Local Authorities Social Services including the Care Order must be immediately emailed by the investigator to the HMRC DM: **[Redacted]** using the email subject header: **Child in Care CY suspension required.**

31. The investigator will progress the tax credit investigation and make the [referral to the DM](#) as normal.

Tax Credit with Abroad Fraud

- 32. If a DWP benefit and Tax Credits are in payment, and the investigation identifies that the customer has moved abroad, **[Redacted]**
- 33. **[Redacted]**
- 34. **[Redacted]** The Investigator may want to submit all the evidence gathered along with an [HMRC5 \(link is external\)](#) referral to HMRC's Serious Non Compliance team, email **[Redacted]** and request they review the claim. They will write out to the address and review the Tax Credit claim.

Serious and Organised Crime Investigation cases

35. Serious and Organised Crime (SOC) must consider referring any cases where there is a joint interest to DWP and HMRC tax credits by completing the [HMRC JWR-OA \(link is external\)](#) and sending the form to the SOC SPOC: **[Redacted]**

36. The SOC SPOC will consider and authorise/reject accordingly. If the form is rejected, the SPOC must provide an explanation as to the reasons why and suggest alternative action.

- 37. **[Redacted]**
- **[Redacted]**

[Redacted]

- **[Redacted]**

Obtaining tax credit information or witness statements on a non-joint working case

49. Tax credit information can only be obtained by completing the [HMRC TCI \(link is external\)](#) form and sending direct to the **[Redacted]**

50. Requests for tax credit information for multi-agency enquiries must not be made via the DWP Tax Credit Desk (DWP TCD).

51. Requests for witness statements must be requested on the appropriate [HMRC3 \(link is external\)](#) form and sent direct to the HMRC Criminal Finance and Intelligence Bureau, using the following email address: **[Redacted]** The Investigations Team leader must sign where the form requests details of the 'Accredited Intelligence Gathering Officer (EO or above).

Obtaining Child Benefit information on a non-joint working case

52. Child Benefit (CHB) information can be obtained direct from the Operational Intelligence Unit (OIU) by completing a Request For Information (RFI). This will include personal, award and child details.

53. The OIU will obtain the requested data direct from the **[Redacted]**

54. CHB witness statements required to prove the DWP offence can be requested from the HMRC Child Benefit Compliance Team by email address **[Redacted]**

Obtaining HMRC Tax information on a non-joint working case

55. HMRC Tax information for indirect or direct tax, such as self-employed assessments, can be obtained via the HMRC request desk based in the OIU. The investigator should complete an RFI.

56. The Intelligence Gathering Officer will make the request for information direct from **[Redacted]**

57. If a request becomes urgent, such as the customer is in court the next day, the investigator can contact the IGO directly.

Referral action

Referral action on Joint Working Tax Credit cases

58. Fraud allegations involving tax credits, except Her Majesty's Revenue and Customs (HMRC) inspired referrals, will be sent to the Referral Enhancement and Routing (RER) Team following completion of the Fraud Referral Form (FRF).

59. This will ensure that the case is identified as suitable for Central Criminal or [Local Service](#) Investigation and routed appropriately on the Fraud Referral And Intervention Management System (FRAIMS).

60. On receipt of the case, the investigator must review the case and decide whether any additional tax credit information is needed to progress the investigation.

61. If additional tax credit information is required, the investigator creates a FRAIMS activity to the Department for Work and Pensions Tax Credit Desk (DWP TCD) to request the additional information. See FRAIMS Guidance - [Joint working with HMRC](#) for details of the FRAIMS activity required.

Action by DWP TCD where an HMRC Fixed Penalty has been issued or HMRC Compliance activity for the same risk actioned

62. For Local Service cases the DWP TCD will consider if an HMRC fixed penalty has been applied following HMRC compliance activity

- if HMRC have charged a Fixed Penalty against a Claimant the case will not be suitable for Joint working
- if HMRC compliance activity has taken place for the same risk and an intervention completed the cases will not be suitable for joint working
- if HMRC compliance activity has taken place for the same risk but no intervention has taken place then the case will be considered as suitable for joint working

63. If the DWP Tax Credit Desk (DWP TCD) decides the case is not suitable for joint working, they will create and send the investigator a Fraud Referral And Intervention Management System (FRAIMS) activity. See FRAIMS guidance – [Joint working with HMRC](#) for details of the FRAIMS activity.

64. The investigator must update the FRAIMS activity and after conclusion of the DWP element of criminal investigation consider if the outcome requires Her Majesty's Revenue and Customs (HMRC) compliance action, they must complete the [HMRC5 \(link is external\)](#) form (DWP Spontaneous Disclosure to HMRC) and email it to:

for tax credit risks: **[Redacted]**

for Child Benefit risks: **[Redacted]**

Note: [Redacted]

Referral for financial investigation

- 65. If it appears that the joint overpayment will **[Redacted]** a referral to the Financial Investigation Unit must be considered. See [Financial Investigations – Referral Process \(link is external\)](#).

Offence consideration

66. In order to secure a successful conviction for tax credit fraud, it is necessary, in the main, to prove beyond all reasonable doubt, that the individual concerned has deliberately and dishonestly provided false information with a view to obtaining the payment of tax credits, to which they knew they were not entitled.

67. Unlike Social Security legislation, there is no statutory offence of failing to declare a change of circumstances. For an offence to have been committed, either:

- **[Redacted]**

68. Tax credit charges will be considered under Section 35 of the Tax Credits Act 2002 where it can be proved that a person has committed an offence if they are knowingly concerned in any fraudulent activity undertaken with a view to obtaining payments of a tax credit by them or any other person.

69. Tax credit charges can also be considered under Section 17 of the Theft Act 1968 where it can be proved that a person dishonestly, with a view to gain for himself or another or with intent to cause loss to another:

- destroys, defaces, conceals or falsifies any account or any record or document made or required for any accounting purposes or
- in furnishing information for any purpose produces or makes use of any account, or any such record or document as aforesaid, which to his knowledge is or may be misleading, false or deceptive in a material particular

Referral for financial investigation

- 70. [Redacted]
a referral to the Financial Investigation Unit must be considered. See [Financial Investigations – Referral Process](#).

Obtaining HMRC evidence from the DWP Tax Credit Desk

71. Once a case has been accepted for joint working by the DWP Tax Credit Desk (DWP TCD), the investigator must request specific information or supporting documentation from the DWP TCD at appropriate points in the investigation by creating a Fraud Referral And Intervention Management System (FRAIMS) activity.

72. For details of the activities to be used, see FRAIMS guidance – [Joint working with HMRC](#)

73. The DWP TCD can provide intelligence from:

- Tax Credit computer systems,
- Pay As You Earn (PAYE)
- Self Assessment records
- Child Benefit systems
- any relevant computer notes from within HMRC

74. The DWP TCD will email the requested information to the investigator and create an activity on the case confirming the information sent. See FRAIMS guidance – [Joint working with HMRC](#) for details of the activity.

75. The DWP TCD can only retain HMRC data for 30 days in accordance with HMRC Data retention policies, the investigator must report any issues with downloading the data to the DWP TCD within this timescale

76. The DWP TCD will not participate in any Interview Under Caution (IUC), search of premises or obtain third party evidence.

77. Examples of the evidence provided by Her Majesty's Revenue and Customs (HMRC) include:

- [Redacted]
This list is not exhaustive.

[Redacted]

78. In all joint working cases, the Department for Work and Pensions (DWP) is the lead investigation agency and will prepare suitable cases for prosecution by the Crown Prosecuting Service (CPS) in England and Wales or Procurator Fiscal (PF) in Scotland.

Sensitive investigations

HMRC Sensitive cases

79. The Department for Work and Pensions Tax Credit Desk (DWP TCD) may not have access to HMRC systems for tax credit claims noted as 'Sensitive' by Her Majesty's Revenue and Customs (HMRC).

80. The DWP TCD will create an activity to refer the case back to the investigator advising the details will be handled by the HMRC Secure Management Unit (SMU).

81. For details of the activity to be used see FRAIMS guidance - [Joint working with HMRC](#).
82. The investigator must send 4 separate emails to: **[Redacted]**
83. Do not mark the emails in any way that could indicate that they are part of a series, such as 1/4 or 2/4 or 1 of 4 or 2 of 4.

84. The subject line must state DWP or TC investigation referral.

85. The body of the message of the emails must be restricted to:

- **[Redacted]**

86. The investigator must create an activity on the Fraud Referral And Intervention Management System (FRAIMS) to record the referral has been made. See [FRAIMS guidance – Joint working with HMRC](#).

87. HMRC SMU will establish whether the case is to be treated as a HMRC Staff or non-Staff case.

Staff case

88. The Secure Management Unit (SMU) will allocate a HMRC Internal Governance Caseworker who will contact the investigator to agree ownership of the investigations and how the investigation is to be progressed.

89. The investigator must update the Fraud Referral And Intervention Management System (FRAIMS) as appropriate.

90. The investigator should continue to progress the investigation obtaining information from the internal governance case worker as per [Non-Staff Case](#).

Non-Staff case

91. The HMRC SMU Compliance Team will take on the role of Tax Credit Desk (TCD) officer and will email the investigator and provide any tax credit information, such as tax credit form, call recordings, correspondence and so on, to support the DWP investigation.

92. On receipt of the information, the investigator must update the FRAIMS case.

93. If a decision is required, the investigator must complete and refer the [REF2 \(link is external\)](#), [HMRC2 \(link is external\)](#) or LT54 forms by email to: **[Redacted]**

94. Ensure the email subject line displays **DWP or TC decision required**.

95. Create an activity on the FRAIMS case to record that the decision has been requested. For details of the activities to be used, see FRAIMS guidance – [Joint working with HMRC](#).

96. Her Majesty's Revenue and Customs Secure Management Unit (HMRC SMU) will provide the HMRC DM1 and revised award notices, including schedule 8 certificates in Scotland, and will email the response to the investigator.

97. The investigator must update the FRAIMS activity to confirm the decision has been received.

98. If the case has been referred for prosecution, the [MN1 \(link is external\)](#) form must be completed when the requisition is received and emailed to the SMU.

99. Where a file upgrade is required, the investigator must contact the SMU to request appropriate witness statements, where required.

DWP Sensitive cases

100. If the case is DWP [sensitive \(link is external\)](#).

101. Tax Credit information must be obtained from the DWP TCD nominated officer. Contact details will be provided by the DWP TCD Team Leader.

Pro-active fraud drives involving tax credits

Pro-active fraud drives involving Tax Credits

102. Where a fraud drive may provide tax credit referrals then HMRC must be consulted at the planning stage. See [Planning a Fraud Drive - Considerations](#).

103. When potential tax credit cases are identified following the initial checks, complete the [HMRC4 \(link is external\)](#) form (Proactive tax credit impact request) and email it to the Regional Joint Working Single Point Of Contact (JW SPOC).

104. The Regional JW SPOC will refer the HMRC4 to the DWP or HMRC Joint Working Forum (JWF).

105. The DWP and HMRC JWF will decide whether the case can be progressed by the investigator or if they should be handed off to the HMRC to investigate. The HMRC4 will be returned to the investigator with the DWP or HMRC JWF decision.

Type of evidence required for Tax Credit offences by the HMRC decision Maker

106. The following provides examples of the types of evidence required by Her Majesty's Revenue and Customs decision makers.

107. Areas of risk and the types of evidence required are outlined. The list is not exhaustive and provision of all the listed evidence for each fraud risk is not necessarily required for a decision to be made.

108. An Interview Under Caution (IUC) transcript must be provided in all cases, so is not included in the evidence list.

- **[Redacted]**

Case no longer suitable for tax credit investigation

131. If at any point the investigator decides the case is no longer suitable for tax credit investigation and no DWP benefits or Housing Benefit or Council Tax Benefit (HB or CTB) offences exist which would still require investigation or Compliance action, the investigator must create a Fraud Referral And Intervention Management System (FRAIMS) activity to the DWP Tax Credit Desk (TCD) notifying them that the case is to be closed.

132. The DWP TCD will take their required actions, including removal of the fraud marker from the Tax Credit system and will notify the investigator by FRAIMS activity when all their actions have been completed.

133. For details of the activities to be used, see FRAIMS guidance – [Joint Working with HMRC](#).

134. On receipt of the activity from the DWP TCD, the investigator must refer the case to their Team Leader for closure.

135. If the case is no longer suitable for a tax credit investigation but there are outstanding DWP or Local Authority offences, the investigator must continue with the investigation or consider transfer of the case to Compliance.

136. If the investigator considers the case is not suitable for criminal investigation but still requires Her Majesty's Revenue and Customs (HMRC) compliance action, they must complete the [HMRC5 \(link is external\)](#) form (DWP Spontaneous Disclosure to HMRC) and email it to:

for tax credit risks: **[Redacted]**

for Child Benefit risks: **[Redacted]**

- **Note: [Redacted]**

137. **[Redacted]**

Interviews Under Caution

138. Interviews Under Caution (IUC) in joint working cases with Her Majesty's Revenue and Customs (HMRC) will be carried out by Department for Work and Pensions (DWP) investigators.

139. Guidance provided in the IUC section must be followed and like the investigation of DWP benefits it is necessary to prove beyond reasonable doubt that the person deliberately and dishonestly provided false information.

140. Appointment letters must inform the claimant that they will be asked questions relating to tax credits as well as DWP benefits. The following letters must be issued when a joint working IUC is to be conducted:

- [C11 JW \(link is external\)](#)
- [C11 JW\(S\) \(link is external\)](#) / [C11\(S\)](#)
- [C11 JW\(W \(link is external\)\)](#)
- 141. Any joint IUC undertaken must be recorded on the case on the Fraud Referral And Intervention Management System (FRAIMS). See FRAIMS guidance - [Joint IUC appropriate](#).

142. The S17 (annual renewal notice) is classified as a new claim and each year of the claim has to be considered for offence purposes when being interviewed under caution.

143. The investigator will need to ask the customer if there have been any changes in their household since they completed the original form and quote each year under investigation. If the customer says no, then the IUC can continue as normal.

144. If the customer states there has been a change, and the offence under consideration is either Living Together whereby the customer has stated their partner returned for a short period and then left again or child dependency cases where the child(ren) have left and then returned to the household, The investigator is required to request the specific dates .

145. This line of questioning needs to be in on every IUC as a matter of course where Tax Credits are being investigated

Action following Interview Under Caution

146. If, after the IUC, the investigator identifies that the Tax Credit element of the investigation no longer meets the prosecution criteria they must follow the instructions for [Tax Credit element no longer suitable for prosecution after IUC](#) and must not refer for an HMRC Tax Credit decision.

DWP benefit decision required

147. Following the Interview Under Caution (IUC), the investigator must obtain overpayment details from the Decision Maker (DM) for DWP offences on the LT54, or equivalent.

Tax Credit element no longer suitable for prosecution after IUC

148. If the investigator identifies that the tax credit element of the investigation no longer meets the prosecution criteria they must notify the DWP Tax Credit Desk (DWP TCD) by creating a Fraud Referral And Intervention Management System (FRAIMS) activity.

149. The DWP TCD will take their required actions, including removal of the fraud marker from the tax credit system and will notify the investigator by FRAIMS activity when all their actions have been completed. **[Redacted]** to advise the case has been closed.

150. For details of the activities to be used, see FRAIMS guidance – [Joint working with HMRC](#).

151. On receipt of the activity from the DWP TCD, the investigator must take closure action as appropriate.

152. The investigator must issue the [C17 \(link is external\)](#)/[C17W \(link is external\)](#) and notify HMRC that the case is no longer being pursued by DWP. Complete the [HMRC5 \(link is external\)](#) (DWP Spontaneous Disclosure to HMRC) and sent it to: **[Redacted]**

153. This will ensure that HMRC take the appropriate action to calculate and recover the overpayment .

154. The referrals to this inbox must be sent individually and the email size must not exceed 10MB. The Subject Line must be completed with **SNC** to indicate Serious Non-Compliance.

Obtaining a HMRC Tax Credit decision

155. It is essential that the investigator removes any sensitive material prior to submission. There is no requirement to complete the [RM7 \(link is external\)](#) certificate. The [RM7 \(link is external\)](#) activity must still be conducted and the activity recorded on FRAIMS, prior to submission to the HMRC DM.

DWP and Tax Credit cases

156. To obtain the tax credit decision, the investigator must email the [REF2 \(link is external\)](#), [HMRC2 \(link is external\)](#), IUC transcript and the LT54, or equivalent, to the HMRC Decision Maker (DM) inbox: **[Redacted]**

CCIIS cases

157. To obtain the tax credit decision, the CCIIS investigator must email the [REF2 \(link is external\)](#), [HMRC2 \(link is external\)](#), IUC transcript and the LT54, or equivalent, to the HMRC Decision Maker (DM) inbox: **[Redacted]** annotate the email subject header : **CCIIS request for a TC decision.**

Tax credit only and Housing Benefit and Tax Credit cases

158. Following the IUC, and where no DWP benefit decision is required, the investigator must complete the [REF2 \(link is external\)](#), the IUC transcript and the [HMRC2 \(link is external\)](#) and each piece of evidence must be scanned and attached to an email. The email must be sent to the HMRC DM inbox at: **[Redacted]**

HMRC DM action

159. The HMRC DM will complete a HMRC DM1 providing details of the decision and the overpayment and email the DM1 and revised TC award notices to the requesting investigator.

160. Additionally, in Scotland the HMRC DM will produce and email a process witness statement.

161. The HMRC DM may provide both Notional and Recoverable Overpayment details. The Investigator needs to enter the figure named in the Charging Period Overpayment on [CD1](#), and record the Notional Overpayment figure on the [MG6 \(link is external\)](#) Part 9 to explain why there are two figures on the DM1

162. If the case is not taken up by HMRC DM. The HMRC DM will email the investigator with an explanation. The investigator will then consider [case no longer suitable for TC investigation](#) action.

163. The investigator must record the overpayment and tax credit Monetary Value of Adjustment (MVA), if appropriate. See [Claiming MVA \(link is external\)](#) for further information.

Tax Credit offences beyond 5 years plus current year (5+CY)

164. Her Majesty's Revenue and Customs (HMRC) legislation provides that TC claims can only be adjusted from the current year plus 5 previous tax years (5+CY).

165. This means that decisions made after 6 April in any year can only be adjusted from a tax year 5 years previously and a recoverable overpayment can only be determined for this period.

Example

A decision made after 6 April 2016 (tax year 2016 to 2017) can only allow for the TC claim to be adjusted from and a recoverable overpayment determined from 6 April 2011 (tax year 2011 to 2012)

However, HMRC Decision Makers (DMs) can calculate and provide details of the overpayment **prior** to the 5+CY **if**:

- evidence is available to enable the DM to determine TC entitlement from an earlier date
- accurate figures can be provided for the earlier years

166. The provision of the earlier overpayments will be determined by HMRC DMs assigned to the case.

167. They will endeavour to supply the earlier year overpayments, although this may not be possible in all cases.

168. There are factors that may prevent HMRC from providing accurate figures for the earlier years and unless the DM can be certain those figures are correct, they will not be able to supply them.

Note: Any figures provided for a period beyond 5+CY are a calculation only, and do not form part of the recoverable overpayment.

If the HMRC DM is able to provide details prior to 5=CY, this will be shown at DM1 part 7.

Calculations of TC overpayments above are restricted to 5 previous tax years plus the current tax year (2010 to 2011 (to) 2015 to 2016).

Although we are unable to create overpayments for the previous tax years, I have calculated that the amount over claimed by [claimant name] from 6 April 2003 to 5 April 2010 is:

Period	Amount Over Claimed	Notional Entitlement	Net Loss to Public Funds
2003 to 2004	£	£	£
2004 to 2005	£	£	£
2005 to 2006	£	£	£
2006 to 2007	£	£	£
2007 to 2008	£	£	£
2008 to 2009	£	£	£
2009 to 2010	£	£	£
Total	£	£	£

Total amount over claimed by [claimant name] between 6 April 2003 to 5 April 2010 is £

Loss to public funds for the period 6 April 2003 to 5 April 2010 is £

Investigations action

169. The overpayment noted at part 3 of the DM1 must be recorded as the following:

- Type of OP= **recoverable**
- Type of error = Fraud

170. Any overpayment prior to 5+CY TC award noted at part 7 of the DM1 must be recorded as the following:

- Type of OP/UP = **non recoverable**
- Type of Error = Fraud

171. Details of the non recoverable overpayment must be noted at part 9 on form [MG6 \(link is external\)](#) with an explanation to advise CPS of the difference in overpayments

Suspension of tax credits

172. In certain circumstances, Her Majesty's Revenue and Customs (HMRC) may postpone payment until they are satisfied payments can resume.

173. The circumstances are clearly identified and the law does not provide any other circumstances for the postponement of payment. These are:

- HMRC is awaiting a tribunal, Commissioner or higher court decision in relation either to the case in question or to another award where the decision in that other case is likely to impact in the case in question
- where the bank details for the account to which tax credits are to be paid appears to HMRC to be incorrect
- where the address of the person to whom payments are to be made appears to HMRC to be incorrect
- where a notice under Section 16(3) of the Tax Credits Act (TCA) 2002 has been issued to the person, to whom tax credits was awarded and the information or evidence requested has not been supplied by the date specified

Mandatory reconsiderations

174. If the investigator is aware that a mandatory reconsideration has been received by the DWP Decision Maker (DM) and

- there has been a change to the decision
- additional evidence has been received

email details to the HMRC DM inbox: **[Redaction]**

Tax Credit element no longer suitable for prosecution after an HMRC Decision has been received

175. If the investigator identifies that the tax credit element of the investigation no longer meets the prosecution criteria after an HMRC Decision has been received by the investigator they must notify the DWP Tax Credit Desk (DWP TCD) by creating a Fraud Referral And Intervention Management System (FRAIMS) activity.

176. The DWP TCD will take their required actions, including removal of the fraud marker from the tax credit system and email the Her Majesty's Revenue and Customs Decision Maker (HMRC DM) inbox: **[Redacted]** to advise the case has been closed. DWP TCD will notify the investigator by FRAIMS activity when all their actions have been completed

177. On receipt of the email, the HMRC DM will remove the case from the records.

178. For details of the activities to be used, see FRAIMS guidance – [Joint working with HMRC \(link is external\)](#).

179. On receipt of the activity from the DWP TCD, the investigator must take closure action as appropriate.

Prosecution and other penalties

180. If offences have been identified, prosecution will be considered by the Team Leader (TL) or Higher Investigations Leader (HIL). Administrative Penalties (Ad-Pens) are not appropriate in joint working cases, as Ad-Pen legislation does not apply to tax credits.

181. The prosecution file will be prepared in accordance with National File Standard (England and Wales) or standard file prosecution (Scotland).

England and Wales only

182. The investigator includes the tax credit claim and overpayment details in the investigator's summary on a [MG5 \(link is external\)](#) and the Investigator's Witness statement on a [MG11 \(link is external\)](#).

183. For further information see [specimen witness statement details](#).

Scotland only

184. The investigator will exhibit any HMRC evidence obtained from the DWP Tax Credit Desk (DWP TCD) including completed Schedule 8 certificates and details of how this evidence was obtained in their witness statement.

185. Once a decision has been made, the investigator will update the Fraud Referral And Intervention Management System (FRAIMS) case to inform them of the progress of the case. This will include court hearing dates and outcomes.

Rebuttal Statements

186. If a rebuttal witness statement is required from the DWP TCD Criminal Intelligence Officer, the investigator creates a FRAIMS activity to the DWP TCD.

187. The DWP TCD will complete the rebuttal witness statement and email it to the requesting investigator.

188. For details of the activities to be used, see FRAIMS guidance – [Joint working with HMRC \(link is external\)](#).

CPS File Upgrade (England and Wales only)

189. Where a file upgrade is required the investigator will exhibit any HMRC Key Evidence requested by the CPS, detailing how it was obtained from the DWP Tax Credit Desk (DWP TCD) in their statement.

190. If a witness statement is required from the HMRC Decision Maker (DM) the investigator emails the HMRC DM inbox. The HMRC DM will return the standardised DM statement by email.

191. The HMRC DM will complete the [MG6B \(link is external\)](#) only if there is anything to declare and send it direct to the CPS.

192. Details of any contact with the TCD or HMRC DM must be recorded on the Fraud Referral and Intervention Management System (FRAIMS).

HMRC Digital Process Witness statements

193. In 2014 and 2015 Tax Credits customers have had the facility to renew their claim and report a change of circumstance via the digital channel.

194. From 2016 customers are able to report a change in their circumstances online.

195. In the event that a customer has used this service and they deny the information that is now showing on the system, this information can be retrieved.

196. If a process witness statement is required for either renewal or change of circumstances they can also be requested.

197. To request information and or [witness statement](#), the investigator must email **[Redacted]** with the subject header of either ' Renewals 14 request', 'Renewals 15 request' or

198. 'Change of Circs request' as appropriate

199. The email must include:

- customer name(s)
- NINO(s)
- country of prosecution
- actual evidence required and dates
- renewals barcode(s) (if applicable).

Obtaining repayment details for court purposes

200. If repayment details are requested by CPS , the investigator should contact the Tax Credit Desk (TCD) who will provide the Investigators with details obtained from HMRC Systems

Third party requests to Her Majesty's Revenue and Customs (HMRC)

201. If the investigator believes HMRC holds further material relevant to the investigation, for example, information held by another department in HMRC or the Crown Prosecution Service (CPS) require tax credit details outside the offence period such as claims or letters prior to the offence, take the following action:

complete and send the:

-  [HMRC DCU1.doc](#)
-  [HMRC DCU \(CP1A rqst\).xls](#) Justification or Case Summary with a brief outline of what is required and why
- Defence Case Statement, if available. This must be requested from the CPS by the investigator

to the DCU by email to: **[Redacted]**

202. The Disclosure Coordination Unit (DCU) will gather the information required and email the investigator with the details obtained and details of further contact needed with other HMRC departments.

203. The DCU will direct the investigator to a HMRC Single Point Of Contact (SPOC) for the further information required.

204. The investigator and HMRC SPOC will liaise direct with regard to obtaining the information.

205. The DCU and HMRC SPOC will produce any relevant schedules for disclosure by the investigator.

206. The DWP investigator and the CPS will review the schedules and disclose any material as appropriate.

207. For sensitive investigations being handled by the HMRC Secure Management Unit (SMU), the DCU will contact the investigator direct to arrange the necessary access to the schedules at an HMRC site.

208. The investigator and DCU will consider any sensitivity and public interest immunity issues before disclosure to the CPS.

Publicising joint prosecutions with Her Majesty's Revenue and Customs

England and Wales

209. An [MN1 \(link is external\)](#) form must be completed by the investigator or Team Leader (TL) or Higher Investigations Leader (HIL) in **all** HMRC joint working investigations once the Digital Case Management Unit (DCMU) has notified that a requisition has been issued and attached to FRAIMS. For further information, see: [Media Notices - Process](#).

Scotland

210. A Preliminary [MN1 \(link is external\)](#) form must be completed by the investigator to include details of the charges and legislation used when the case is accepted by the Procurator Fiscal (PF).

CCIIS cases

211. [MN1 \(link is external\)](#) form must be completed as soon as considered relevant by the investigator or Higher Investigations Leader (HIL).

212. The DWP Tax Credit Desk (DWP TCD) must also set an activity confirming the MN1/Requisition acted on and will monitor the next court date so that they can:

- ring the court for an update (England and Wales only)
- update the DWP TCD MI spreadsheet
- update the Fraud Investigation Performance Pack (FIPP) for HMRC

213. Once the final sentence details are obtained by the DWP TCD they must email the HMRC DM and HMRC Benefits and Credit Comms inboxes with the following information:

- full court name and address
- offence details
- plea
- details of sentencing
- POCA/compensator/conviction information

214. The investigator must complete the final [MN1 \(link is external\)](#) form following the instructions outlined in: [Media Notices](#).

Disclosure of information

215. Information and intelligence obtained during a joint investigation should be exchanged between the departments providing there is a legislative gateway.

216. Personal data can only be disclosed if it is relevant to an investigation. For further information about disclosure to Her Majesty's Revenue and Customs (HMRC), see [Disclosure to Other Government Departments or Organisations](#).

Case closure

217. Crown Prosecution Service (CPS) may directly notify the Tax Credit Desk of the outcome of the case, in which instance they may have already taken action to close their case. If that has happened then it would be recorded on Fraud Referral and Intervention Management System (FRAIMS) as an activity and the FI would see it. There would then be no need for the investigator to send a notice. If they have not, then the investigator must create a FRAIMS activity to the DWP Tax Credit Desk (DWP TCD) notifying them of the court outcome and that the case is to be closed.

If Scotland CPS is not appropriate the fraud investigator (FI) must take all action to notify the TCD following checks via Scottish Court Database.

218. The DWP TCD take their required actions, including removal of the fraud marker from the tax credit system and closing the case on the TCD MI spreadsheet.

219. The DWP TCD notify the investigator when all their action is complete.

220. For details of the activities to be used, see FRAIMS guidance: [Joint working with HMRC](#).

221. On receipt of the activity from the DWP TCD, take normal case closure action.

222. Where the DWP case is subject to financial investigation, the HMRC DM will liaise directly with the Financial Investigations Unit (FIU).

223. If the investigation has uncovered an offence that impacts upon Child Benefit, the Investigator must complete the [HMRC5 \(link is external\)](#) form (DWP Spontaneous Disclosure to HMRC) and email it to Child Benefit risks: **[Redacted]**

07 Joint working with Other Agencies

Introduction

It may be necessary to work with other organisations where there is a Department for Work and Pensions (DWP) interest. Guidance for working with the:

- Child Maintenance Group (CMG) / Child Support Agency (CSA) and
 - the police
- is explained in this section.

However, there are occasions when it is beneficial to work with the other agencies such as:

- Security Industry Authority (SIA)
- Trading Standards
- National Health Service (NHS)
- Department for Business, Enterprise and Regulatory Reform (BERR)
- Department for Environment, Food and Rural Affairs (DEFRA)
- UK Visas and Immigration.

This list is not exhaustive.

Child Maintenance Group

The Child Maintenance Group / Child Support Agency (CSA) is responsible for obtaining maintenance from Absent Parents (AP) or Non-Resident Parents (NRP) and paying it to the Parent with Care (PWC) if they are not in receipt of benefit.

If the PWC is in receipt of benefit the agency recoups the child support for the department.

There is a [National Service Statement \(link is external\)](#) between the Department for Work and Pensions (DWP Operations) and DWP Child Maintenance Group to deal with issues that have a common interest to both agencies.

Police

There is a Memorandum of Understanding (MOU) between the:

- [Department for Work and Pensions and The Association of Chief Police Officers \(ACPO\)](#) for England and Wales and
- [Association of Chief Police Officers Scotland \(ACPOS\)](#), which specifically relates to fraud investigation.

Its purpose is to assist the Department for Work and Pensions (DWP) and the police to co-operate in the investigation of crime.

There are several overarching MOUs with ACPO/ACPOS, drawn up by Information and Devolution Policy covering England, Wales and Scotland.

There are also separate MOUs regarding the management of Sex Offenders which include the disclosure of information relating to sex offenders in these areas.

Investigations that require police assistance

Itinerant and multiple identity fraud cases investigated by CFCD Criminal Investigations would normally require the assistance of the police. This is so that the suspect can be arrested, or

detained in Scotland, interviewed and prosecuted otherwise they are likely to disappear. For further information see [Identity Fraud](#).

A search of property and seizure of documents may be required which requires the assistance of the police. See [Search and Seizure](#).

There are occasions when the police should be approached to consider arresting, or detaining in Scotland, a suspect. For guidance on when and how to approach the police see [Arrest](#).

Forensic evidence, such as checking documents for fingerprints, is sometimes required and may only be obtained from the police. For guidance on the procedures for obtaining forensic evidence see [Forensic Examination](#).

Disclosure to the police

The police can request information from DWP to assist them in their investigations. For guidance on the procedures for dealing with police requests, see [Disclosure to Police](#).

Joint Interviews Under Caution

Following an arrest for a non-benefit offence, the police may discover evidence that indicates an offence against a DWP benefit and request that a Counter Fraud and Compliance Directorate (CFCD) investigator is present at the interview.

In most of these cases the police officer conducts the interview but may ask the CFCD investigator to ask the suspect technical questions about social security benefits.

In cases where the police have made the decision to arrest or detain a suspect in relation to a benefit offence, the police may ask the CFCD investigator to conduct the interview. In these cases, a police officer must be present even though they may not take an active part in the interview.

On completion of the interview the investigator must raise a Fraud Referral Form (FRF), available via the icon on the desktop, with sufficient information to ensure that the case is automatically routed to CFCD and the investigator can be identified as the primary owner of the case.

If the case is required by CFCD Criminal Investigations the offence type must be noted as one that would automatically be routed to Criminal Investigations.

JSA Joint claims

00 Introduction

Background

1. The Welfare Reform and Pensions Act 1999 provides for specified couples to make Jobseekers Allowance (JSA) Joint Claims. Both members of the couple must meet the Labour Market conditions;

- availability
 - actively seeking work, and
 - signed up to a Jobseekers Agreement (JSAg).
2. A Couple must be a joint claim if neither of them are responsible for a child and at least one member is:
- aged 18 or over and
 - born after 28 October 1947 and
 - under state pension age.
3. There are a number of exemptions to making a joint claim and further details about JSA Joint Claims and exemption categories can be found in the [JSA Joint Claims Exemptions \(link is external\)](#) guidance.
4. Payment of benefit will be made to the nominated member of the Joint Claim, the 'nominated payee'. In the guidance the nominated payee will be referred to as the Claimant.

01 Investigating JSA Joint Claims

Responsibilities of Joint Claimants

1. Both members of the Jobseeker's Allowance (JSA) Joint Claim have a duty to disclose information and report changes in circumstances as required by the Secretary of State under the new regulations.
2. Under current non-Joint Claims regulations, any penalty action would be taken against the claimant who received the benefit since they are signing declarations for both themselves and any dependants.
3. Under Joint Claims, both members of the partnership have a duty to report changes of circumstances regarding their own or partners circumstances.
4. Each member of the partnership will be required to sign an ES24. Therefore, action will generally be taken against the member of the partnership who failed to declare a change of circumstance.
5. When investigating a JSA Joint Claim, the investigator will need to establish;
 - which member of the couple misrepresented or failed to declare the relevant change of circumstances and
 - the evidence available against that person and
 - when possible, how much the partner knew about the misrepresentation/failure to declare.

Investigations

False JSA Joint Claim form - Claimant working

6. If it can be established that the claimant completed the section in the form about their own work, the allegation will be one of making a false declaration.

False JSA Joint Claim form - Partner working

7. During the Interview Under Caution (IUC) the investigator must establish whether the claimant had read and understood the information on the form about declaring the partner's work, and who completed those sections on the form.

8. If the claimant completed the relevant sections, and knew the partner was working, the appropriate allegation to put to the claimant will be one of making a false declaration.

9. If the claimant completed the form, but it cannot be established that they knew of the partner's work, no action can be taken against the claimant. However, it may be possible to consider taking action against the partner for 'knowingly allowing' a false declaration to be made.

10. If a case is appropriate against the partner, a Fraud Referral Form (FRF) must be completed in the partner's name so that the case can continue, see: [FRAIMS guidance – Incidents raised by the Case owner](#).

11. Once a case in the partners name is raised the claimant's case must be closed with No Result as the outcome.

12. If the partner completed the relevant sections, then the allegation to put to the partner will be one of making a false declaration.

13. The appropriate action will be to IUC and put the allegation to whichever member of the partnership was working and who made a false declaration on their ES24.

Other Circumstances

14. There are a number of questions on the Joint Claim forms, which asks the claimant to give information regarding both themselves and their partner, for example, owning property, money from sources other than earnings, etcetera.

15. The action to take depends on what the claimant, and partner knew, and understood, when they completed and signed the Jobseeker's Allowance (JSA) Joint Claim form.

16. If the claimant knew about these matters, consideration can be given to proceeding on a false declaration allegation. If the investigator has no evidence to show or cannot prove that the claimant knew about these matters, the claimant cannot be prosecuted. In these circumstances the investigator must consider interviewing the partner.

17. As the partner may not have completed these sections, the investigator has to establish that the partner knew what information was provided on the form and then consider taking action against the partner for 'knowingly allowing' a false declaration to be made.

18. In these circumstances complete a new FRF in the partner's name and close the claimant's case, see: [FRAIMS guidance – Incidents raised by the Case owner](#).

19. For offences relating to non-declaration of a change of circumstances following completion of the original JSA Joint Claim form, the investigator must consider proceedings against the member of the partnership to whom the change relates and therefore made a false representation on the ES24s and failed to declare the change in circumstances.

Interviews Under Caution

20. Under JSA Joint Claims, all letters dealing with the claim must be sent to both members of the partnership. When requesting a claimant or partner to attend the office for interview, an individual letter must be sent to the member of the partnership you wish to interview.

21. A printed copy of this letter must also be sent to the partner in a blank, not a window, envelope, with the other partner's name noted, see: [FRAIMS guidance – Generate and printing the letter](#).

22. Members of the partnership must not be IUC'd together, nor must they be allowed to attend the IUC with the other member of the partnership in the capacity of a 'friend' or appropriate adult.

23. If it is necessary to consider interviewing both the claimant and their partner; for example when the allegation is based on the original claim form for JSA. The investigator must IUC both the claimant and partner separately to establish:

- who completed the relevant sections on the claim form
- who has misrepresented the facts, and
- how much the other person knew about the misrepresentation when the claim form was completed.

24. For investigation purposes, it is usual practice for only the member of the partnership who misrepresented or failed to declare to be held responsible for the overpayment.

25. Before requesting a claimant and or partner to attend the IUC, it is necessary to consider which member of the partnership, made the false declaration and the evidence available to the investigator.

26. If the claimant has failed to declare a change in their circumstances, following the initial claim being made, only the claimant must be interviewed under caution.

27. If the partner has failed to declare a change in their circumstances, following the initial claim being made, it is necessary to interview the partner.

28. For further information, see: [Conducting the Interview Under Caution](#).

Overpayment

29. If the Decision Maker considers that both members of the partnership are jointly responsible for the overpayment, fraud penalty action must be considered against both the claimant and their partner.

02 Fraud Penalties

Deciding who to take action against

1. The question of who to take fraud penalty action against will depend on which member of the partnership the investigation identifies as failing to declare or misrepresent and from whom the overpayment is to be recovered.

2. The Decision Maker (DM) will determine which member of the partnership is responsible for the overpayment. Appropriate fraud penalty action will be taken against this person.

3. Any contact that takes place with the DM must be recorded on Fraud Referral And Intervention Management System (FRAIMS). For further information see [FRAIMS guidance – Benefit Decisions - FES](#).

Cautions for Offences committed wholly before 1 April 2012

4. When a caution is to be offered, as both members of the partnership have an individual responsibility for the joint overpayment, the [FC1 \(link is external\)](#)/[FC1W \(link is external\)](#)/[FC1S \(link is external\)](#), should be prepared in the names of both members of the partnership. For further information see [Cautions](#).

5. Details of offering the caution and the result must be recorded on FRAIMS. For further information see [FRAIMS guidance – Cautions](#).

6. A caution can no longer be offered by the Department for Work and Pensions (DWP) on cases where the offence is committed wholly on or after 1 April 2012, or the period of the offence spans before and after the 1 April 2012.

7. For offences committed 1 April 2012 onwards, an Administrative Penalty (Ad-Pen) must be offered. For further information see [Offence\(s\) committed prior to or spanning 8 May 2012/Offence\(s\) committed wholly on or after 8 May 2012](#).

Administrative Penalties

8. When an Ad-Pen is to be offered, as both members of the partnership have an individual responsibility for the joint overpayment and any Ad-Pen, the appropriate [ADPEN 6C \(link is external\)](#)/[ADPEN 6CW \(link is external\)](#)/[ADPEN6CJW \(link is external\)](#)/[ADPEN6CJW\(W\) \(link is external\)](#) must be prepared in the names of both members of the partnership. For further information see [Administrative Penalties](#).

9. Details of offering the Ad-Pen and the result must be recorded on FRAIMS. For further information see [FRAIMS guidance – Administrative Penalties](#).

10. Although both will be required to accept to repay the overpayment and Ad-Pen individually, the amount of the Ad-Pen against the total overpayment will be recovered against one or both members of the partnership.

Obtaining legal advice

11. If one member of the partnership refuses to accept the offer of a caution or Ad-Pen, advice should be sought from the prosecuting authority before further action is considered.

12. Details of the advice sought must be recorded on FRAIMS. For further information see [FRAIMS guidance – Obtaining legal advice](#).

Juveniles

00 Introduction

Introduction

1. Juveniles are young people under the age of 18.
2. The Crime and Disorder Act 1998 introduced a Final Warning Scheme, in England and Wales only, to replace the use of police cautions for juveniles. Sections 65-66 of the Act introduced a new procedure for the reprimand and warning of juveniles who have committed offences and prohibited the use of the caution for such offenders.
3. The principle of the Final Warning Scheme is that offending behaviour is tackled at the earliest stage by using a range of interventions from the Youth Offending Teams (YOTs). This attempts to divert juveniles away from further offending.
4. The scheme uses Reprimands and Final Warnings allied to support, training and other types of intervention by the YOT, geared towards changing the attitudes and behaviour of the young person.
5. Police Cautions still apply in Scotland.

01 Final Warning Scheme

Key Elements

1. A Reprimand or Final Warning is not a criminal conviction. If asked by employers, a young offender is entitled to say they do not have a criminal conviction but, if asked, they must admit to having received a Reprimand or Final Warning.

Reprimand

2. A Reprimand is used in cases when a juvenile admits they are guilty of a minor first offence. This takes the form of a formal verbal warning given by a Police Officer.
3. The juvenile may at this stage be referred to the Youth Offending Team (YOT), on a voluntary basis, to take part in a programme to help steer them away from offending behaviour.

4. Police will consider several factors when deciding whether or not to use a Reprimand. These include checks on the Police National Computer (PNC) and an assessment of the gravity of the offence.

5. If the juvenile has been reprimanded previously, then a Final Warning or Prosecution will be the next step to be taken. If there has not been a clear and reliable admission of the offence, then a Reprimand or Final Warning would not be appropriate.

Final Warning

6. A Final Warning is a formal verbal warning given by a Police Officer to a juvenile who has admitted their guilt for a first or second offence and may be used where the juvenile has previously received a Reprimand.

7. In the case of a Final Warning the offender is referred to the YOT who will conduct an assessment and develop a specific programme of activities to address the offending behaviour. This is designed to reduce the likelihood of future re-offending.

Youth Offending Team

8. The YOTs are key to the success of the Final Warning Scheme. Each Local Authority in England and Wales has a YOT, made up of representatives from the Police, Probation Service, Social Services, Health, Education, drugs and alcohol abuse and housing officers.

9. They assess the juvenile to identify the risk factors that could cause the juvenile to re-offend and set out a programme to tackle those risks. This may include providing support for the juvenile or parents, education or training.

What does the Final Warning Scheme mean for the Department for Work and Pensions?

10. In cases where there has been an admission of benefit or benefit-related fraud by a juvenile and it is decided that a formal caution is appropriate the details of the case must be passed to the police for consideration under the Final Warning Scheme.

11. The criteria that must be satisfied before referring to the police are that there must be sufficient evidence that:

- there would be a realistic prospect of conviction
- there must be an admission of guilt and
- the juvenile must not have previously received a Department for Work and Pension (DWP) Caution or Administrative Penalty.

12. The police will check if there has been any previous conviction or Reprimand/Final Warning.

13. If a Final Warning has been given previously, prosecution would be appropriate and the police would refer the case back to the DWP for prosecution.

14. Where the person was a juvenile at the time of the offence but has since passed their 18th birthday, they must be treated as an adult for prosecution/fraud penalty purposes.

15. The normal range of fraud penalty options for an adult will be available, including a Caution or Administrative Penalty.

02 Investigating Juveniles

Investigation

If the subject of the investigation is a person is under 14 years old, refer the case immediately to the Crown Prosecution Service (CPS) for advice.

Alleged benefit fraud committed by a juvenile aged 14 or over should be investigated in the normal way.

An investigator may conduct an Interview Under Caution (IUC) with the suspect. However, if the person is under 18 years old, an appropriate adult must be present during an IUC as required by the Police and Criminal Evidence Act (PACE) 1984 Code of Practice, Code C, for more information about Appropriate Adults, see [Interviewing People at Risk](#). In cases where there has been an admission of benefit-related fraud by the juvenile and it is decided that an alternative to prosecution is appropriate, the details of the case must be referred to the police for consideration under the Final Warning Scheme.

Details of the referral to the police must be recorded as an activity on FRAIMS.

If there has not been such an admission and there is insufficient evidence to initiate criminal proceedings, where appropriate the case should be referred for recovery of any overpayment in the normal way and the fraud file closed, see [FRAIMS guidance – Closure Approval \(Non Sanction Outcome\) - FES](#).

Procedure for referring cases to the police

Where a case satisfies the criteria outlined in paragraph 4 above, it should be referred by the Team Leader (TL) / Higher Investigations Leader (HIL) to the police for consideration for the Final Warning Scheme, using the [Referral of a Juvenile to Police \(link is external\)](#) form. The form should then be sent to the local police liaison officer responsible for administering the Final Warning Scheme.

The claimant and parent/carer must be informed that the case has been referred to the police.

Details of the referral to the police must be recorded as an activity on FRAIMS.

Accepted by the police

The police will decide whether the case is accepted onto the scheme. There should be an expectation that the police will issue Reprimands and Final Warnings within 20 working days of the case being referred.

If accepted, the Referral of a Juvenile to Police form will be returned to the TL / HIL by the police with details of the outcome 'Reprimand or Final warning' entered in Part 2.

The details of the acceptance must be recorded on FRAIMS.

The case is recorded as closed on FRAIMS as a Case Outcome of 'Positive Criminal'.

Not accepted by the police

If the case is not accepted, the police will enter the reason for this on Part 2 of the Referral of a Juvenile to Police form and return the form to the TL / HIL.

The details of the rejection must be recorded on FRAIMS.

The TL / HIL will then decide whether or not the case is to be passed for prosecution.

Landlord and Tenant Investigations

00 Introduction

Introduction

1. Housing Benefit (HB) is a Department for Work and Pensions (DWP) benefit administered by Local Authorities (LAs). It is the responsibility of both organisations to investigate these cases in line with the closer working recommendations of the Scampion Report.
2. Counter Fraud and Compliance Directorate (CFCD) Team Leaders (TLs) / Higher Investigations Leaders (HILs) will need to take account of the provisions of the Fraud Partnership Agreement (FPA) when conducting investigations of this type. For further information, see [Joint Working](#).
3. A landlord is a person who owns, lets or leases property and who obtains an income from that property in the form of rent paid from tenants who are stated to reside in the property.
4. There are many different types of landlord fraud. Not all will involve collusion with a tenant. Some may not necessarily benefit the landlord financially, particularly where the actions of the landlord facilitate abuse of the benefit system by their tenants or others.
5. HB is the main area of abuse although other benefits are often affected. Landlord fraud may involve a great deal of planning and collusion between the parties involved, to obtain or attempt to obtain, fraudulent payment of benefits.
6. HB offences do not require Joint Working arrangements in Single Fraud Investigations areas.

01 Legislation

Legislation

1. Relevant legislation includes:

- Sections 112 and 112(1A) of the Social Security Administration Act (SSAA) 1992 and Sections 111 and 111(1A) of the SSAA 1992
2. The following acts apply in England and Wales (E&W) only
- Section 1 of the Theft Act 1968
 - Section 2(1) of the Theft Act 1978
 - Sections 15 and 15(A) of the Theft Act 1968
 - Section 17(1)(A) of the Theft Act 1968

This list is not exhaustive.

3. In Scotland, the Criminal Procedure (Scotland) Act (CP(S)A) 1995 also applies. This is the principle statute governing procedure in the Scottish Criminal Courts.

Relevant offences

4. When joint working with the Local Authorities (LA), Section 126A of the SSAA 1992 provides LAs to obtain information from landlords and agents, for details about the information that can be obtained, see [Information that can be obtained from landlord and agents](#).
5. The information that can be obtained includes such things as the number of properties, number of tenants and addresses.
6. Relevant offences include:

- **[Redacted]**

7. If a person conspires/agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intention, either:

- will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement or
- would do so but for the existence of facts which render the commission of the offence, or any of the offences impossible.

Information that can be obtained from landlords and agents

Section 126A of the Social Security Administration Act 1992 (inserted by Section 11 of Social Security Administration (Fraud) Act 1997)

Power to require information from landlords and agents (s12, SS(F)A, '97)

“Landlord and agents”

126A. - (1) Regulations shall provide that where a claim for housing benefit in respect of a dwelling is made to an authority and the circumstances are such as are prescribed –

(a) the authority or

(b) a person authorised to exercise any function of the authority relating to housing benefit,

may require any appropriate person to supply information of a prescribed description to the authority or other person.

(2) Subject to subsection (4) below, for the purposes of subsection (1) above a person is an appropriate person in relation to a dwelling if he/she is-

(a) a person to whom anyone is, or claims to be, liable to make relevant payments

(b) a person to whom, or at whose direction, a person within paragraph (a) above has agreed to make payments in consequence of being entitled to receive relevant payments or

(c) a person acting on behalf of a person within paragraph (a) or (b) above in connection with any aspect of the management of the dwelling.

(3) In subsection (2) above “relevant payments”, in relation to a dwelling, means payments in respect of the dwelling which are of a description in relation to which housing benefit may be paid.

(4) Regulations may provide that any prescribed person, or any person of a prescribed description, is not an appropriate person for the purposes of subsection (1) above.

(5) The descriptions of information which may be prescribed for the purposes of subsection (1) above include, in particular, any description of information relating to, or to any interest in or other connection with,

dwellings and other property situated anywhere in the United Kingdom.

(6) Information shall be supplied under subsection (1) above in such manner and form, and at such time and in accordance with such other requirements, as may be prescribed.

(7) Information supplied to an authority or other person under subsection (1) above may be used by the authority or other person only in the exercise of any function relating to Housing Benefit or Council Tax Benefit.

(8) The provisions of Sections 122D and 122E above apply in relation to any information supplied under subsection (1) above which is not benefit administration information (within the meaning of those provisions), as if it were.

02 Types of tenancy fraud

1. The following paragraphs describe types of landlord/tenancy fraud. The headings used to describe each type have no legal status and may not be in general usage throughout the country.

2. No type of fraud is mutually exclusive: one or more offences may exist at any one time

Landlord in receipt of means tested benefits

3. If a landlord is in receipt of a means tested benefit, it may be affected if the landlord has capital in the form of property and/or rental income.

4. However, ownership of property and/or rental income **does not** necessarily disallow entitlement to benefit, the rules are complex and reference to the relevant Decision Maker/Benefit Assessor may be appropriate. Investigators may also wish to seek their advice at the outset of any investigation.

5. The investigator should consider the following lines of enquiry:

- **[Redacted]**
- 6. For more information, see [Intelligence Gathering](#)

Letting agents

7. Letting agents usually charge the landlord a fee and/or commission and handle the majority of the routine procedures associated with rented accommodation, such as advertising its availability, selecting suitable tenants, checking references, arranging tenancy agreements and collecting rent/receiving HB.

8. **[Redacted]**

9. **[Redacted]**

10. **[Redacted]**

11. In these cases, further lines of enquiry to follow could include the third party information providers listed in [Landlord in receipt of means tested benefits](#) and the use of:

- Sections 109 and 126A of SSAA1992 to obtain information from Letting Agents
- DPA 2018 paragraph 2(1) of Schedule 2 of Data Protection Act 2018
- interviewing previous tenants and
- cross matching of HB payments to letting agents.

Fictitious tenants

- **[Redacted]**

14. These investigations may uncover evidence of fictitious or hijacked identities or even multiple claims and, if discovered, Counter Fraud and Compliance Directorate (CFCD) Criminal Intelligence must be contacted immediately before any further action is taken.

15. CFCD Criminal Investigations holds the investigative remit for all instances of hijacked or fictitious identity fraud, **[Redacted]**

16. **[Redacted]**

17. In these type of cases, further lines of enquiry to follow could include those listed under [Landlord in receipt of means tested benefits](#) and:

- Her Majesty's Revenue and Customs (HMRC)
- surveillance and/or
- a series of un-notified visits to the property being claimed for.

Contrived/non-commercial tenancy

18. A contrived tenancy can be created to take advantage of the HB scheme, **[Redacted]**

19. A [non-commercial](#) tenancy exists when a tenancy is **[Redacted]**

Close relative

20. HB regulations prohibit the payment of HB where the landlord resides in the same dwelling and is a close relative. Again, the participants may conceal this fact from the DWP and the LA and may represent themselves as landlord/tenant using different names and addresses.

21. A close relative is defined in HB Regulation 2(1) as either:

- parent, step-parent or parent-in-law
- son, step-son or son-in-law
- daughter, step-daughter or daughter-in-law
- brother
- sister
- partner of any of the preceding people.

22. Further lines of enquiry could include

- **[Redacted]**

Simultaneous claim with different authorities

[Redacted]

Landlord compliance investigation

25. **[Redacted]**

Continuous claim

26. **[Redacted]**

Standard of accommodation

[Redacted]

Inflated rent

29. **[Redacted]**

Landlord fraud against other agencies

30. Investigators need to be aware that landlords may also commit fraud against other agencies. Where information is obtained to suggest that this is the case, spontaneous disclosure action should be taken, see Disclosure of Information in the public interest – [Voluntary Disclosure of Jobcentre Plus information..](#)

Non-commercial arrangements

31. This provision, while similar to Social Security Administration Act (SSAA) 1992 Section 126A, [Redacted]

[Redacted]

37. SSAA 1992 Regulation 7A therefore requires that, when determining whether or not an agreement is on a commercial basis, to have regard, among other things to any terms in the agreement which are not enforceable at law.

Liability of claimants to make payments

38. It must be remembered that before SSAA 1992 Regulation 7A can be brought into operation, the Decision Maker must be satisfied that the claimant has a liability to make payments in respect of the dwelling he/she occupies as his/her home.

39. A legally enforceable liability only arises where a specific amount is included in the agreement. Thus, a claimant whose rent is 'whatever Housing benefit you get' does not have a legal liability and is not entitled to Housing Benefit.

40. It is not always easy to determine whether a person has a liability but it would be difficult to prove that they didn't, if they have a properly constituted, written tenancy agreement.

Living Together Investigations

00 Introduction

Background

1. Social Security legislation treats couples who are not married nor in a civil partnership that are Living Together As a Married Couple (LTAMC), in the same way as couples who are married/in a civil partnership.

2. LTAMC is not, in itself, an offence. In Section 112 and Section 111A of the Social Security Administration Act (SSAA) 1992 cases, the false representation will be based on the denial or omission to mention the presence of a partner in the household.

3. In Section 112(1A) and Section 111A(1A) cases, there will be a failure to report a change of circumstance of a partner joining the household.

4. A LTAMC case may be passed for investigation to establish:

- the facts that could have a bearing on benefit entitlement and
- whether or not a claimant has committed a benefit offence through undisclosed living together.

5. In certain circumstances, particularly blood relations, individuals cannot legally marry/form a civil partnership and cannot be stated to be living in a LTAMC situation. See [Living Together as a Married Couple Annex 1 – Prohibited/Forbidden Degrees \(link is external\)](#)

Effect on Housing Costs

7. Where the Living Together As a Married Couple (LTAMC) case is not proved but it appears that the alleged partner is resident in the claimant's household, the housing costs allowable may be affected.

8. Where Employment Support Allowance (Income Related), Jobseekers Allowance (Income Based) or Income Support includes an element for the mortgage interest payable, a non-dependent deduction may be appropriate.

9. Where Housing Benefit is in payment, the Local Authority should be notified so that a decision regarding a non-dependant charge can be considered.

01 Living Together Offences

Living Together Situations

1. Living Together As a Married Couple (LTAMC) may also occur in situations outside the simple failure to declare the true state of the couple's circumstances.

Fictitious desertion

2. Fictitious desertion is considered to have occurred when a claimant suggests that their partner has left the address. However, evidence later comes to light to demonstrate that they had never separated and had continued to live together as a couple throughout the period concerned.

Collusive separation

3. Collusive separation is when the partner has left. However, they may have separated after agreeing to a course of action, for example, to take advantage of the benefits system, the partner moves out for a short period of time with the intention of moving back after the claim to benefit has been processed and payment commenced.

Undisclosed marriages/civil partnerships

4. If a claimant is married/in a civil partnership and lives with their spouse/civil partner and ticks the 'No' box to having a partner on the claim form, their claim is false from the outset since the claim form contains a false statement.

5. If the marriage/civil partnership takes place during the claim and the claimant fails to declare the marriage/civil partnership and that they are living with their spouse/civil partner, there is a failure to notify a change of circumstances.

6. Establishing an offence is not a simple matter and will be dependent upon the method of payment and/or review forms available and what the claimant knew at the time. However, an investigator needs to:

- prove the claimant is married/in a civil partnership
- question the claimant to establish what they know about the conditions of entitlement to benefit.

7. Before considering an Interview Under Caution (IUC), the investigator should obtain a full certified copy of the marriage/civil partnership certificate from the registrar and show it at the Interview Under Caution (IUC).

8. For guidance on obtaining a marriage or civil partnership certificate, see [Obtaining Certificates](#)

9. If the claimant denies marriage/civil partnership, the investigator must prove the person named on the certificate is the claimant. Proof of identity will have been provided to the registrar before the marriage/civil partnership can take place.

10. Witnesses to the marriage/civil partnership are recorded on the certificate and can corroborate that the claimant and the person named on the certificate is the same person.

Landlord/tenant relationship declared

11. This is where a couple agree to create an impression that the LTAMC relationship is one of landlord and tenant. This may occur from the outset of the claim or develop from one that began strictly on a commercial basis.

12. As well as establishing proof of LTAMC, investigators should obtain evidence regarding:

- [Redacted]

13. For more information see [Landlord and Tenant Fraud](#).

02 Investigations

Fraud Referral Form (FRF) or Incident with an offence of Living Together are assessed by Case Preparation and based upon the information provided, passed for a fraud investigation or will be routed directly to Compliance.

For more information about the routing of these cases, see [Manually Promote to a Case](#)

Case received

Case Preparation will identify the cases described below and route them to Compliance:

- both the individual and the alleged partner are in receipt of benefit and declaring that they live at the same address or
- another person is declared on the claim form of one of the individuals suspected to be Living Together As a Married Couple (LTAMC).

Establishing a link

When investigating cases of suspected living together as a married couple (LTAMC), it is necessary at the initial stage to establish a link between the alleged partner and the address of the benefit recipient.

Examples of a link could be:

- checks made by Case Preparation, for example, [Redacted]
This list is not exhaustive and examples quoted must be considered taking into account the individual circumstances of each case.

If the link establishes that the alleged partner is receiving a Department for Work and Pensions (DWP) benefit, forward the case to Compliance for continued action.

See: [FRAIMS guidance – Downgrading a Case](#).

Intelligence gathering

The list below is a reminder of initial background checks to consider. This is not a tick list of checks to be undertaken in every case. Each check must be considered on a case-by-case basis and only appropriate checks undertaken. Before any third party checks are undertaken, a link between the alleged partner and the claimant and or address must have been made.

Initial Case Preparation Checks

[Redacted]

Examples of types of evidence which may provide [Redacted]

[Redacted]

Surveillance

All directed surveillance activity must be carried out by the designated surveillance teams within Investigations or Serious and Organised Crime.

[Referring a case for surveillance](#)

Surveillance can be used to obtain significant evidence to support the allegation. Surveillance must be authorised in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA). Where the Investigator and Team Leader fully prepare and explore all options at an early stage, better results and more cost-effective operations are undertaken.

Surveillance may be necessary to help establish:

- **[Redacted]**

Before referring for surveillance activity, investigators must try to establish details of the subjects being referred to the Surveillance teams.

Description details of the claimant and the alleged partner may have been provided on the Fraud Referral Form (FRF) or, **[Redacted]**

[Redacted]

Surveillance authorisation is not required for this purpose.

Record details of the description on Fraud Referral and Intervention Management System (FRAIMS), see: [FRAIMS guidance – Suspects - Additional Information views](#).

If the persons live in a property with a number of other people, for example, house of multiple occupation (HMO), or in a block of flats where individual entrances cannot be seen, surveillance activity may not be appropriate.

Surveillance alone may suggest residence but it does not prove that a Living Together As a Married Couple (LTAMC) situation exists. However, together with other information, surveillance may suggest a LTAMC situation.

For more information on requesting directed surveillance see: [Referring a case for surveillance](#)

Obtaining evidence from alleged partner's employer

An alleged partner's employer may be approached where the Fraud Referral Form (FRF) **[Redacted]**:

- **[Redacted]**

[Redacted]

Neighbours

[Redacted]

For further information see: [Witnesses \(link is external\)](#).

Further Information for Living Together As a Married Couple Investigations

For further information on how to investigate, Living Together as a Married Couple cases see: the [Living Together Good Practice Guide \(link is external\)](#).

Suspension of benefit

On receipt of all new evidence, the investigator must consider if a referral to the Benefit Decision Maker should be made.

For further information, see: [Obtaining a Decision Maker decision](#).

03 Interviewing

Planning the interview

1. Investigators should conduct an Interview Under Caution (IUC) if there are reasonable and objective grounds to suspect that a Living Together As a Married Couple (LTAMC) offence has occurred and based on known facts or information the likelihood is that an offence has been committed. See [IUC Preparation and planning \(link is external\)](#).
2. If the conditions for an IUC are not satisfied, and it is clear that the case will not progress to a fraud penalty, the investigator should refer the case for Compliance action, see [FRAIMS guidance – Transferring a case](#).
3. If the alleged partner is suspected of forming some part of the alleged fraud and there are grounds to suspect that the partner committed an offence, such as aiding and abetting (England and Wales) or art and part (Scotland), investigators can consider interviewing the partner under caution.
4. Consider whether it is appropriate to IUC or interview the:
 - alleged partner first
 - claimant first
 - claimant and alleged partner at the same time, in the office and in separate rooms
 - claimant in their home as a result of a notified visit or
 - alleged partner in their home, as a result of a notified visit
5. When interviewing the claimant under caution, the investigator may put to the claimant evidence that has already been obtained from the partner, including information obtained from the IUC or interview of the partner.
6. Similarly, evidence obtained from the claimant could be put to the claimant's partner should there be a need to interview the partner.
7. It should be noted that great care should be taken not to recite verbatim the partner's IUC to the claimant during the IUC as this may render those parts of the claimant's IUC inadmissible in criminal proceedings.
8. The spouse or civil partner is a competent witness but not a compellable one and must be advised that they are not required to give evidence that might incriminate their spouse or civil partner. However, a partner is both competent and compellable.
9. In England and Wales, witness evidence is usually admitted in criminal proceedings by the production of oral witness evidence at Court. In a LTAMC case, it is highly unlikely that the defence will agree the written evidence of one partner against the other.
10. In Scotland, the Procurator Fiscal will decide whether or not to cite them as a witness. Their evidence would then be given in Court.

Conducting the interview

11. Before a statement is taken from any individual the investigator must fully explain:
 - why the statement is being requested
 - that the statement may be shown to the claimant or alleged partner
 - that the statement may be used in court in criminal proceedings and
 - that they may be asked to give evidence in court
12. When conducting any Living Together As a Married Couple (LTAMC) interview, the investigator must be aware that:

- most of the evidence will be circumstantial
- factors contributing towards LTAMC are particularly personal. Investigators should try to obtain information to establish entitlement without intruding into people's lives more than is necessary
- they should not make or imply any moral judgement

Areas to cover during the interview

13. If a case is to proceed to prosecution, the investigator will need to obtain evidence in relation to certain facts which will enable the Decision Maker (DM) and then the prosecutor to make decisions on benefit entitlement and whether the evidential threshold under the Code for Crown Prosecutors has been met.

14. Investigators may wish to consider the questions on the CP2(LT) – Living Together. However, the CP2(LT) must not be issued to the interviewee.

15. The questioning should be constructed to cover the following areas::

- **[Redacted]**
16. An investigator must not ask questions regarding a couple's sexual relationship but can note any information volunteered to them. However, investigators should be aware that the absence of a sexual relationship does not preclude a LTAMC situation.

Members of the same household or Co-residence

[Redacted]

Stability of the relationship or Domestic arrangements

19. To enable the investigator to establish the stability of a relationship, they will need to consider whether or not the relationship is similar to that of a married couple.

Public acknowledgement

20. The investigator should establish how third parties perceive the couple, for example, neighbours and employers.

21. Some couples represent themselves as husband and wife or civil partners and some couples retain their identity as unmarried/not in a civil partnership. This does not mean they cannot be regarded as LTAMC.

Children

22. The investigator will need to establish that the couple have accepted parental responsibility for the children within the household. This may indicate that the couple are LTAMC.

[Redacted]

Financial relationship

24. The investigator will need to establish the financial arrangements of the household. For example:

- **[Redacted]**

Further enquiries

25. Where the claimant at the Interview Under Caution (IUC) denies the presence of the partner in the household and states that the partner is living at an alternative address, **[Redacted]**

26. The investigator should also follow any reasonable lines of enquiry which arise following the IUC, for example:

- interviewing any potential witnesses mentioned by the claimant in the IUC

- contacting the Local Authority (LA) housing department to check if alternative addresses are registered for the claimant or alleged partner

Decision Making

Evidence for successful Living Together cases

There are no hard and fast rules relating to appropriate evidence to supply to a Decision Maker to enable a decision to be made as each case will be considered on its own merits. Decision Makers (DM) require evidence not opinion, and not 'what appears obvious' as it has to be able to withstand impartial scrutiny.

Evidence can be written, observed or verbal from an Interview Under Caution. It must be tangible, e.g. it is acceptable to record that the couple were holding hands, looked into each other's eyes, smiled at each other, etc. but not that they 'appeared' to be a couple, or seemed 'friendly'.

For further information see: [Decision Making \(link is external\)](#).
What does the Decision Maker (DM) look for?

[Redacted]