

# Withdrawn

**This publication is withdrawn.**

This guide has been withdrawn because it is out of date.

# Local Service Investigation - Real Time Information Bulk Data Match referrals

## 00 Investigation – Real Time Information Bulk Data Match referrals

Real Time Information (RTI) is a database which holds Pay as you earn (PAYE) information relating to people working for employers and those receiving occupational pensions.

- RTI does not include self employed income
- Where all employees are paid below the Lower Earnings Limit and do not have another job or are in receipt of expenses or benefits
- e-exempt employers

Real Time Earnings (RTE) is the DWP database that holds Pay As You Earn (PAYE) information for Universal Credit claimants. RTE also hold self employed self reported earnings and income (pension)s

### RTI Disputes

A copy of the RTI dispute proforma is completed by the UCFS agent, this should be available within the build to identify what the dispute covers and why this has not been resolved by reference back to the HMRC.

Limited information is pulled through regarding the employer name, if it is not possible to trace sufficient details upon which to make enquiries, a RFI will be required using business as usual processes.

Investigators should make enquiries to the employer using Section 109 SSAA powers requesting sufficient information to clarify whether the employee and the claimant are the same person. This could include

- Evidence of identification documents held
- Confirmation of the method of payment and account details, where possible
- Employees home address
- Employees emergency contact details

If the evidence obtained indicates that the employed person is not the claimant, an email should be sent with copies of the obtained evidence to the relevant Service Centre generic email account, noting the subject line RTI Dispute Outcome and the name of the case manager.

If evidence obtained indicates that the employee and the claimant are the same person, an invitation to attend an [Interview Under Caution](#) should be issued.

As the RTI feed continues to be taken into account, the offence in this type of referral is [Attempted Fraud](#) as no OP will exist and penalty action considered accordingly

## 01 Live FRAIMS Interest

On receipt of a Real Time Information (RTI) referral, Interventions will check Customer information System (CIS) to determine if there is a FRAIMS Interest.

If there is an Investigation interest, a the Fraud Referral Form (FRF) will be raised and a Portable Document Format (PDF) extract of the Real Time Information (RTI) data will be sent to either the investigating officer or to the **[Redacted]** to supplement the current investigation. All cases with a live Fraims interest regardless of value will have an FRF

raised. Therefore you could receive an RTI case with a potential overpayment of [Redacted] but as there is a current investigation the two incidents will need amalgamating.

**Note:** If it is identified when previewing the referral that it relates to a member of Department for Work and Pensions (DWP) staff, follow [Business As Usual \(BAU\) procedures](#).

The investigator will need to consider if the case needs suspending due to the data received in the RTI match.

## 02 Investigations

Investigators will handle any cases identified by Interventions using the specific referral criteria for investigation. The referral criteria will result in some cases with overpayments of [Redacted] being referred, for instance, where it is suspected that the benefit claim was false from the outset. Consider Fraud Penalty as appropriate.

### Fraud referral Criteria

The criteria for sending cases to Investigations:

- [Redacted]
- [Redacted]

The RTI Exception Criteria, not suitable for referral to Investigations:

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

For cases that meet the criteria Interventions will either send an associated PDF file containing the 'match' detail to the relevant Case Preparation inbox, details here [Case Preparation Regional Mail](#) or upload the PDF file to DRS. They will only upload the file to DRS when they have corrected benefit from DALPM (date after last payment made). Investigations staff must undertake a criminal investigation even if current entitlement has been adjusted or ended by. Interventions to establish the full extent of the crime. Any overpayments must be actioned, irrespective of whether the customer continues to claim benefit or not and relevant decisions made.

If the case is in the Case Preparation FRAIMS inbox, Case Preparation will ensure that the cases and associated Portable Document Format (PDF) files are sent to Investigation teams to be actioned promptly. As an identifier, each PDF email sent by Interventions will have in its subject line @RTI, followed by the relevant post code, followed by the claimants NINO.

**Note:** CFCD use the FRAIMS number as the case identifier, as that will translate to DRS. Case Preparation teams will link the PDF with the FRAIMS referral:

- enhance the case and route to Investigations
- if CP think the referral is inappropriate then the [inappropriate referrals](#) instructions must be followed.

In England and Wales, employers must not be contacted for completion of an EQ1 unless:

- there are reasonable grounds to suspect employment started before the RTI information came into effect, or
- earnings are low and information on actual hours worked are needed to enable reassessment.

- It is a dispute case  
All referrals should meet the fraud referral criteria so are appropriate for Investigations. This includes false from outset cases where the overpayment may be [Redacted] However further information may come to light during the investigation that means the case is more appropriate for Compliance action.

The following list are scenarios where re-routing to Compliance may be considered:

- further investigation means the overpayment is [Redacted] (excludes false from outset)
- not suitable for prosecution, when it's decided not to IUC the customer because the mental or physical health of the suspect or partner is such that prosecution or alternative penalty is not desirable. Please note that age alone is not an acceptable reason.

Following investigation if a case is found to be official error the official error overpayment is sent to the Investigations decision maker and the case closed on FRAIMS.

#### **Customer disputes the evidence.**

RTI information is expected to be robust and is used across the business. In a small number of cases, the RTI data has been received and acted upon in good faith, but the customer disputes the RTI data.

- If the customer denies any knowledge of or connection with the employer or provider, this could be an indicator of potential erroneously allocated information, identity fraud or collusive employer. The investigator will ascertain why the customer is disputing the RTI data and if any adjustments are required. [Redacted]

Prior to raising the FRF, the Interventions agent will raise a dispute proforma and send it to an HMRC Cross Department Team in [Redacted]. They check the data, which may include contacting employers and providers. In a large number of cases, an anomaly is detected in the data and the claim is corrected accordingly.

However, in a few cases HMRC confirm the data is correct but the customer still disputes this. In this instance, an FRF will be raised by Interventions and the associated RTI PDF and disputes proforma from HMRC Cross Department Team will be emailed to [Redacted] Case Preparation Team will then attach the documents to FRAIMS. This will provide information on what contact has been made with the employer or provider and details of the RTI data.

Where the customer disputes the evidence in the PDF or Schedule, additional evidence will be needed. In employment cases, an EQ1 may be required or evidence from the employer such as photo ID, application form to verify identity. For disputed pension income cases, an AO14 must be sent to the pension provider for pension details.

Where an employer no longer exists, other evidence sources will need to be obtained, for example bank statements to cover wage payments.

This list is not exhaustive and investigators will need to look at each case on its own merits and decide what may or may not be required.

As part of the investigation you may suspect identity fraud or collusive employers (2 or more customers or employees), in which case you need to refer the case to Serious and Organised Crime.

It is imperative in these cases to gain an understanding as to why the customer is claiming the RTI data does not relate to them. The outcome must be recorded clearly in FRAIMS as it will be used to inform future RTI processes and certify the validity of the data. [Redacted]

As part of your investigation you may identify incorrect RTI data and depending on the reason there are a set of different routes to correct this:

- if you are unable to identify the employer from the RTI feed then send an [MF67 \(link is external\)](#)

- if you identify two customers are using the same NINO then send a CIS502 which can be [located here](#) (link is external).
- if the employer has made an error in posting the data then ask the employer to send a correction to HMRC.
- if you identify that the dispute could be attributed to an error made by HMRC then please send details to the **[Redacted]**, do not close the case at this point. Any other queries around RTI disputes can also be directed to this inbox.

## **Inappropriate Referrals**

Instances where there is doubt that the Interventions referral meets the referral criteria, this should be raised by emailing **[Redacted]** giving your reasons. Interventions will either request the case be withdrawn or provide a further explanation as to why the case should continue. Do not close the case on FRAIMS until the outcome of the potential inappropriate referral is known.

**Example:**

**[Redacted]**

## **Exhibiting the Real Time Information as evidence**

The Portable Document Format (PDF) document is the primary evidence to be presented at the Interview Under Caution (IUC) for clarification around employers and dates worked.

If the RTI PDF is not accepted by the customer an EQ1 or equivalent must be obtained from the employer and used as evidence. MG11 continuity witness statements are not required unless requested by CPS.

The RTI PDF will be exhibited by the officer who extracted the information and sourced the referral. These are obtained via the nominated interventions officer by means of a generic MG11 statement.

A list of the [nominated Interventions officers](#) is available here.

## **Real Time Information sourced from Local Authorities**

If the RTI PDF is presented at IUC and the evidence is accepted as correct by the customer, the Local Authority as the Data Owner for the decision will only need to provide an MG11 witness statement if requested by CPS. If the LA will not supply the statement then take EQ1 action and use as evidence.

If the RTI PDF is not accepted by the customer an EQ1 or equivalent must be obtained from the employer and used as evidence. MG11 continuity statement is not required unless requested by CPS.

The RTI PDF will be exhibited by the officer who extracted the information and sourced the referral. These are obtained via the nominated interventions officer by means of a generic MG11 statement.

## **Naming convention**

For further information, see [Naming Conventions](#) (link is external).

## **Corroboration in Scotland**

Fraud Investigation staff in Scotland will be aware that the corroboration of evidence is required under Scottish law.

The Crown Office Procurator Fiscal in Scotland has approved the following wording:

- If the RTI evidences essential elements of the offence (For example: That the accused in employment and in receipt of earnings) then this essential element would still require to be corroborated by a second source of evidence.

Examples of a second source of evidence that would corroborate the RTI could include but are not limited to:

- an admission made by an accused at interview that they were employed or in receipt of earnings, or
- the statement of an employer or a work colleague who can identify the accused and speak to their being in employment or receipt of earnings.

Interventions must be mindful that there might be further action required on rejected cases which were not reassessed prior to referral. The MVA will not have been claimed and the overpayment will also need to be calculated in all instances.

## 03 Recording RTI results on Fraud Referral and Intervention Management System

36. The following process must be followed when recording RTI results on to Fraud Referral and Intervention Management System (FRAIMS).

37. In Most RTI cases MVA is claimed by Interventions. If a case is referred for Local Service to investigate, (Monetary Value Adjustment) MVA must not be claimed again. Only enter additional MVA on FRAIMS plus any overpayment, penalty, prosecutions outcome.

Step	Action
1	<p>select the correct <b>Outcome result</b> from the drop down list:</p> <ul style="list-style-type: none"><li>• <b>Admin Penalty</b></li><li>• <b>Prosecution</b></li><li>• <b>Positive Criminal</b> – must only be closed where an Monetary Value Adjustment (MVA) and/or Over Payment (OP) identified</li><li>• <b>No Result</b> – cases must only be closed as ‘No Result’ where there is no MVA and/or OP</li></ul>
2	<p>select the appropriate follow up outcome from drop down list:</p> <ul style="list-style-type: none"><li>• Outcome</li><li>• Decrease</li><li>• OP.</li></ul>

**Note:** If MVA has already been claimed by Interventions, record any additional information on FRAIMS. **Do not** complete the MVA tab as this could cause duplication.

38. The ‘Outcome Result’ should show **Decrease** and **OP**, the activity line should reflect the reasons why the MVA tab has not been completed, for MVA claimed by Interventions.

# Loss of Benefit Provision

## 00 Introduction

### Introduction

1. Primary legislation covering the Loss of Benefit Provisions for benefit fraud offences is contained in the Social Security Fraud Act 2001 (as amended by the Welfare Reform Acts 2007 and 2009).

2. This primary legislation is supported by the:

- Social Security (Loss of Benefit) Regulations 2001 which came into effect on 1 April 2002
- Social Security (Loss of Benefit) (Amendment) Regulations 2010 which came into force from 1 April 2010 and
- Social Security (Loss of Benefit) (Amendment) Regulations 2013 which came into force from 01 April 2013.

3. The Loss of Benefit Provisions are designed to act as a deterrent against abuse of the benefit system by applying a Loss Of Benefit (LOB) penalty to those who:

- are convicted of or
- accept an Administrative Penalty or
- accept a Caution

for benefit fraud offences relating to disqualifying benefits.

4. From 1 April 2012, Cautions are not offered by the Department for Work and Pensions however Local Authorities will continue to offer them, where applicable.

5. These provisions enable the Secretary of State to apply a penalty to benefit payability.

6. This Loss Of Benefit penalty is applied to sanctionable benefits during a fixed Disqualification period.

7. For more information about Sanctionable and Disqualifying Benefits, see

#### **For offences periods beginning before 1 April 2013**

- [Sanctionable and disqualifying benefits/credits \(except Industrial Injury Scheme benefits/credits\)](#)
- [Sanctionable and disqualifying Industrial Injury Scheme benefits/credits](#)

#### **For offences periods beginning on or after 1 April 2013**

- [Sanctionable and disqualifying benefits/credits](#)

## 01 Disqualification periods and penalties

### Disqualification periods

#### **Offences wholly committed on or after 1 April 2013.**

1. A Loss of Benefit penalty will apply if the offence is wholly committed on or after 1 April 2013.

2. A penalty will be imposed where the claimant:

- accepts a Administrative Penalty (Ad-Pen)
- receives a criminal conviction in relation to the offence

3. Offences that result in an Ad-Pen will result in a Loss Of Benefit (LOB) penalty of four weeks. For a first conviction, the LOB penalty will be 13 weeks.

4. Where there are 2 offences, within a set time period, with the second resulting in a conviction, the LOB penalty will be 26 weeks.

5. Where there are 3 offences within a set time period, with the third resulting in a conviction, the LOB period will be 3 years.

6. Where the claimant has accepted an Ad-Pen, for offences after 1 April 2013 these will be used when considering if a longer LOB period will be appropriate.

7. A conviction involving a serious case of organised benefit or identity fraud will be subject to an immediate 3 year LOB penalty.

8. For more information, see [02 – Offences wholly committed on or after 1 April 2013](#).

### **Offences wholly committed on or after 1 April 2010**

9. A LOB penalty for a 4 week disqualification period, only applies if the offence is wholly committed on or after 1 April 2010.

10. Known as a 'One Strike' penalty it applies where the claimant:

- accepts a Caution or Ad-Pen
- receives a criminal conviction in relation to the offence either as a:
  - first conviction or
  - second or subsequent conviction that does not link to a previous conviction

11. For more information, see [03 – Offences wholly committed on or after 1 April 2010](#).

### **Offences wholly committed on or after 1 April 2002**

12. A LOB penalty for a 13 week disqualification period, also known as a 'Two Strike' penalty, applies where a person is convicted in 2 separate sets of proceedings of offences relating to disqualifying benefits. The conviction must relate to offences which occurred on or after 1 April 2002.

13. For more information, see [04 – Offences after 1 April 2002](#).

## **Penalties**

14. Depending on the benefit, the Loss Of Benefit (LOB) penalty can either result in a total loss or a reduction of benefit and is applied to all sanctionable benefits payable where benefit entitlement exists for any period during the disqualification period.

15. Determining that a LOB penalty applies and calculating the period of the penalty, including penalties against Housing Benefit (HB), is the responsibility of Counter Fraud and Compliance Directorate (CFCD).

16. The role of applying the LOB penalties is the responsibility of the benefit processors. For Single Fraud Investigations (SFI) the investigator must notify the Local Authority (LA) of the LOB using the Local Authority Information Exchange Form ([LAIEF \(link is external\)](#)).

17. LOB penalties can be applied to benefit payable to the person or their partner if they are included in a claim to benefit submitted by the partner.

18. Where a claimant is convicted of two or more separate benefit fraud offences at the same Court Hearing, including LA convictions, CFCD will record this on Fraud Referral and Intervention Management System (FRAIMS) as two separate results but for LOB purposes, it will be regarded as one conviction.

## **02 Offences wholly committed on or after 1 April 2013**

### **Offence period**

1. The following actions must only be taken where the period of the offence begins on or after 1 April 2013. If the period of the offence begins before this date, guidance as outlined in:

- [03 – Offences wholly committed on or after 1 April 2010](#) or
- [04 – Offences wholly committed on or after 1 April 2002](#)



must be followed.

2. 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.
3. Local Authorities can offer Cautions for offences after 1 April 2012.
4. See [Sanctionable and disqualifying benefits and credits](#) for details of disqualifying and sanctionable benefits.

## **Administrative Penalties and Local Authority Cautions**

5. Offences which result in an Administrative Penalty (Ad-Pen), or Local Authority (LA) Caution, will result in a Loss Of Benefit (LOB) Level 1 penalty of four weeks.
6. During the Ad-Pen interview, the claimant must be informed that if they accept the Ad-Pen any sanctionable benefit they receive during the disqualification period, will be subject to a loss/withdrawal or reduction.
7. The Ad-Pen acceptance certificate signed by the claimant includes a paragraph confirming that the claimant understands that by accepting the offer of an Ad-Pen any sanctionable benefit they receive during the disqualification period will be subject to a LOB penalty. The Counter Fraud and Compliance Directorate investigator must ensure that the form used includes this paragraph.
8. Immediately following the completion of the Ad-Pen agreement the [LOB\(AC\) / LOB\(AC\)W \(link is external\)](#) must be issued to the claimant.
9. Where the claimant has accepted an Ad-Pen, or LA Caution, the [LOB1 \(link is external\)](#) is retained by the benefit processing area to allow for cases where the claimant is not in receipt of benefits when the Determination Date is decided, the period of retention for Ad-Pens, and LA Cautions, is 17 weeks.
10. For Single Fraud Investigations (SFI) the investigator must advise the LA by completing part 9 of the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form), embedding the appropriate LOB form and email it to the appropriate LA Single Point of Contact (SPOC).

## **Following conviction**

11. A first conviction will result in a Loss Of Benefit (LOB) Level 2 penalty of 13 weeks.
12. Where there are two periods of offences, within a set time period, with the second offence resulting in a conviction, this will result in a LOB Level 3 penalty of 26 weeks.
13. Where there are three periods of offences, within a set time period, with the third offence resulting in a conviction, this will result in a LOB Level 4 penalty of three years.
14. The linking period for offences will be five years, however it is not necessary for a third or subsequent offence period to be within five years of the first, see [Escalation and linking](#) for more details.
15. Convictions involving a serious case of organised benefit or identity fraud will result in a LOB Level 5 penalty of three years.

## **Escalation and linking**

16. The escalation and linking rules will include Cautions / Ad-Pens accepted by the claimant as well as convictions.
17. These Loss Of Benefit (LOB) penalties do not link to the previous LOB ('One / Two Strike') penalty regime and the offences must have occurred wholly on or after 1 April 2013.

## **Escalation**

18. The table below shows how the LOB penalties will escalate for each new offence within the linking period of 5 years for each new offence.

	1st Offence	2nd Offence	3rd Offence
Scenario 1	Ad-Pen 4 week LOB penalty	Ad-Pen 4 week LOB penalty	1st Conviction 3 year LOB penalty
Scenario 2	Ad-Pen 4 week LOB penalty	1st Conviction 26 week LOB penalty	2nd Conviction 3 year LOB penalty
Scenario 3	1st Conviction 13 week LOB penalty	2nd Conviction 26 week LOB penalty	3rd Conviction 3 year LOB penalty

## Linking

19. A linking period of up to five years applies to all period of offences. All offences must begin on or after 1 April 2013.

20. The five year linking period is calculated from the start date of the second offence period which must be within five years of the end date of the first offence period. Subsequent offence periods will link where the start date of the third, or subsequent, offence period is within five years of the end of the previous offence period.

## Example

On 30 July 2013, the claimant accepts an Ad-Pen for offences between 2 April 2013 and 15 July 2013 the LOB penalty is four weeks.

On 29 December 2018, the claimant is convicted of benefit fraud for offences between 1 July 2018 and 2 August 2018, as the first offence is within five years of the last offence for the previous period, the LOB penalty is 26 weeks.

On 7 October 2024, the claimant is convicted of benefit fraud for offences between 25 June 2023 and 1 March 2024, as the first date for this offence period is within five years of the last offence for the previous period, the LOB penalty is three years.

## Immediate three year Loss Of Benefit penalty

21. Where the conviction involves serious organised benefit or identity fraud, the Loss Of Benefit (LOB) is three years.

22. For offences committed wholly on or after the 1 April 2013, a Level 5, three year LOB penalty, will be applied where the offender is convicted for the following offences and where the criteria list below applies:

One of the following applies:

An overpayment of £50,000 or more has been incurred (as determined by the court) or  
A one year or more custodial sentence (including suspended sentence) has been imposed or  
There has been a period of benefit offending of 2 years or more (as determined by the court).

England, Wales and Scotland, offences under:

Section 182 of the Social Security Administration Act 1992

Section 327, 328 or 329 of the Proceeds of Crime Act 2002

Section 4, 5 or 6 of the Identity Documents Act 2010.

England and Wales only, offences under:

Section 8 of the Accessories and Abettors Act 1861

Section 1 of the Criminal Law Act 1977

Section 1, 3, 4 or 5 of the Forgery and Counterfeiting Act 1981

Section 6 or 7 of the Fraud Act 2006

Section 44, 45 or 46 of the Serious Crime Act 2007.

Scotland only, offences under:

Section 44 of the Criminal Law (Consolidation ) (Scotland) Act 1995,

Section 28 or 30 of the Criminal Justice and Licensing (Scotland) Act 2010

Section 29 of the Criminal Justice and Licensing (Scotland) Act 2010 (offences aggravated by connection with serious organised crime applies)

Common law offences of:

Conspiracy to Defraud

Embezzlement

Fraud

Fraudulent scheme

Uttering.

One of the following criteria applies:

An overpayment of £50,000 or more has been incurred (as determined by the court) or  
A one year or more custodial sentence (including suspended sentence) has been imposed.

England and Wales only, offences under:

Section 1 of the Fraud Act 2006 (England and Wales only).

England and Wales and Scotland only, offences under:

Section 111A of the Social Security Administration Act 1992

Section 35 of the Tax Credit Acts 2002.

23. In England and Wales only, a Level 5, three year LOB will be applied where the offender is convicted for an offence under Section 118 of the Welfare Reform Act 2012 – The Common Law offence of Conspiracy to Defraud, no other criteria will apply.

## **Action following conviction**

24. Following receipt of the details of the conviction from the Prosecution Authority, the investigator must consider if this is a first conviction or if this conviction links to previous offences committed on or after 1 April 2013.

25. Send the claimant the [LOB\(P\)](#) / [LOB\(P\)W \(link is external\)](#) and ensure the letter is annotated with the period;

- of benefit loss/reduction and
- the record will be retained for linking purposes.

This action must be taken wherever possible within two days of the notification being received.

## LOB retention

26. The [LOB1 \(link is external\)](#) is retained by the benefit processing area to allow for cases where the claimant is not in receipt of benefit at the time the determination date is decided, the period of retention is:

- Level 1 – For offences which result in an Administrative Penalty (Adpen) or Local Authority Caution the penalty will be for **4 weeks – retained for 8 weeks**
- Level 2 – For a first benefit fraud **conviction** the penalty will increase from 4 to **13 weeks – retained for 17 weeks**
- Level 3 – Where there are two offences, within a set time period, with the **latter resulting in a conviction**, the penalty will be for **26 weeks – retained for 30 weeks**
- Level 4 – Where there are three offences within a set time period, the **latter resulting in a conviction**, the penalty will be for **3 years – retained for 37 months**
- Level 5 – For **serious organised fraud and identity fraud cases** the penalty will be an **immediate 3 year loss of benefit. – retained for 37 months.**

## 03 Offences wholly committed on or after 1 April 2010

### Offence period

1. The following actions must only be taken where the period of the offence begins on or after 1 April 2010. If the period of the offence begins before this date, guidance as outlined in [04 - Offences committed wholly on or after 1 April 2002](#) should be followed.
2. Loss Of Benefit action for this offence period may be referred to as 'One Strike'.

### Action required

3. 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 offences spans this date.
4. A Caution can be offered on cases handled after 1 April 2012 where the offence was committed wholly before 1 April 2012.
5. Local Authorities will continue to offer Cautions for offences after 1 April 2012.

### Caution or Administrative Penalty

6. During the Caution or Administrative Penalty (Ad-Pen) interview, in respect of benefit offences committed wholly on or after 1 April 2010, the claimant must be informed that if they accept the Caution or Ad-Pen any sanctionable benefit they receive during the disqualification period, will be subject to a loss/withdrawal or reduction.

7. The Caution/Ad-Pen acceptance certificate signed by the claimant includes a paragraph confirming that the claimant understands that by accepting the offer of a Caution or Ad-Pen any sanctionable benefit they receive during the disqualification period will be subject to a loss of benefit penalty. The investigator must ensure that the form used includes this paragraph.

8. Immediately following the acceptance of a Caution or the completion of Ad-Pen agreement the [LBS1AC \(link is external\)](#)/[LBS1ACW \(link is external\)](#) must be issued to the claimant. These forms are available as FRAIMS templates.

### Following conviction

9. Where the claimant is convicted, the investigator must consider if the conviction:

- is in respect of offences that were wholly committed on or after 1 April 2010 and
- if the conviction links to a previous conviction.

10. If the offence period begins before 1 April 2010, or the new conviction is within the three or five year linking period of a previous conviction, see [04 - Offences wholly committed on or after 1 April 2002](#).

11. If the offences involved in the conviction occurred wholly on or after 1 April 2010, and the conviction is a first conviction or does not link to a previous conviction, the investigator must send the [LBS1P \(link is external\)](#)/[LBS1PW \(link is external\)](#) to the claimant within two days of receiving the notification of conviction. These letters are available as FRAIMS templates

12. The LBS1P will advise the claimant of the effect the Loss Of Benefit provision on their continuing, or future, entitlement to benefit.

13. It will also warn the claimant of the effect of the Loss Of Benefit provision will have should they be convicted of a subsequent offence that links to the current one.

## 04 Offences wholly committed after 1 April 2002

### Offence period

For convictions where part or the whole of the offence occurred prior to 1 April 2002 Loss Of Benefit action does **not** apply.

If the conviction is a first or subsequent conviction that does not link to a previous conviction for Loss Of Benefit purposes, the Counter Fraud and Compliance Directorate (CFCD) investigator must issue the warning letter [TS1 \(link is external\)](#)/[TS1W \(link is external\)](#).

If the start of the offence period is on or after 1 April 2013, take action as outlined in [02 – Offences wholly committed on or after 1 April 2013](#).

Loss Of Benefit action for this offence period may be referred to as **Two Strikes**

See [07 Sanctionable and disqualifying benefits and credits](#) for details of disqualifying and sanctionable Benefits.

### Two Strikes indicator

Following the Court hearing, if the Crown Prosecution Service (CPS) has undertaken the prosecution, the Digital Case Management Unit (DCMU) / Central Prosecution Team (CPT) will record the details of the legal outcome on the Fraud Referral and Intervention Management System (FRAIMS).

Where the prosecution has been undertaken by the Procurator Fiscal the outcome must be recorded on FRAIMS. See [FRAIMS guidance – Recording the Legal Outcome](#).

FRAIMS will automatically calculate whether or not a Loss Of Benefit (LOB) penalty is applicable and if appropriate, the **Two Strike Start Date** field is automatically populated on the **Contact More Info** view.

FRAIMS will automatically notify the start date to Customer Information Service (CIS). This date is the date the verdict was delivered.

The investigator must check CIS to ensure that the **Two Strike Start Date** box has been completed.

### Two strikes penalty

A Loss Of Benefit (LOB) penalty is triggered when a person is convicted in two separate sets of proceedings of offences relating to disqualifying benefits. Both the offences and the convictions must occur on or after 1 April 2002.

Where the period of offences begin on, or after, 1 April 2013, take action as outlined in [02 – Offences wholly committed on or after 1 April 2013](#). This action must be taken even where the second or subsequent conviction would link for **Two Strike** purposes.

In addition, the second or subsequent offence must commence within three or five years of the date of the previous conviction. To determine whether the linking period is three or five years the policy shown in the following paragraphs must be followed.

### **Example**

The defendant is convicted at a court hearing held on 11 February 2005. The defendant is investigated again and offences are established for the period from 28 January 2007 until 4 December 2007. The defendant appears at court on 12 April 2008 and is convicted of all the offences. Although the gap between the court hearings is longer than three years, as the gap between the first court hearing and the first offence in the second court hearing (11 Feb 2005 until 28 January 2007) is less than 3 years, a Two Strike penalty is applicable.

If the date of the second offence for which the claimant is convicted is on or after the 1 April 2008 and is within five years of the date of an earlier benefit offence conviction, a Two Strike penalty is applicable.

### **Example**

The defendant is convicted at a court hearing held on 11 February 2006. The defendant is investigated again and offences are established for the period from 28 June 2009 until 4 December 2010. The defendant appears at court on 12 April 2011 and is convicted of all the offences. Although the gap between court hearings is longer than five years, because the gap between the first court hearing and the first offence in the second court hearing (11 Feb 2006 until 28 June 2009) is less than five years, a Two Strike penalty is applicable.

A Two Strike penalty applies to all sanctionable benefits where benefit entitlement exists during the disqualification period, regardless of whether or not the offence was committed against that benefit.

## **Third strike**

A Loss Of Benefit penalty will be appropriate following a third and subsequent conviction for benefit offences, providing the offences relating to these convictions occurred within 5 years of the Conviction Date of the previous conviction. If the offence for the earlier conviction occurred prior to 1 April 2008 this period will be 3 years. In effect the linking period is between the date of conviction for the earlier offence and the offence start date of subsequent convictions.

## **Action required following second and subsequent benefit fraud prosecutions**

If a claimant is convicted for a second or subsequent offence and the offence links to a previous conviction, the following action must be taken by Counter Fraud and Compliance Directorate (CFCD):

- if the second or subsequent conviction was for an offence committed before 1 April 2008 send a loss of benefit notice [TS3 \(link is external\)](#)/[TS3W \(link is external\)](#) to the claimant
- if the first offence in respect of the second conviction occurred after 1 April 2008 send letter TS3A/TS3AW
- send form [TS2\(JCP\) \(link is external\)](#)/[TS2\(PDCS\) \(link is external\)](#) to the appropriate benefit processors. See [05 - Notifying the Benefit Processor](#)

A list of the sanctionable benefits, pensions, credits and allowances is available at [07 Sanctionable and disqualifying benefits and credits](#).

## **Disqualifying period for Two Strike penalty**



Where the claimant or partner is in receipt of a sanctionable benefit and you determine that a Two Strike Loss Of Benefit penalty is appropriate, the start date of the disqualifying period is 28 calendar days from the date on which you made the determination. The end date will be 13 weeks from the start date.

See [07 Sanctionable and disqualifying benefits and credits](#) for details of sanctionable benefits.

#### **Example**

- the date on which a decision is made is 8 October 2007.
- the start date of the disqualifying period is 28 calendar days from 8 October 2007. That is, 5 November 2007
- the end date of the disqualifying period is 13 weeks from 5 November 2007. That is, 3 February 2008.

In Two Strike Loss Of Benefit penalty cases, if the claimant or partner is not in receipt of a sanctionable benefit when you determine that a Loss Of Benefit penalty is appropriate, the disqualification period is dependant on when the date of the first offence heard at the second court hearing occurred.

If the second or subsequent conviction was for an offence committed before 1 April 2008, the earliest start date of the disqualification period is the 29th day following the determination day. But the end date is three years and 28 calendar days from the date of the conviction.

This is the case even if the second court hearing occurs on or after 1 April 2008.

#### **Example**

- the second Court hearing is held on 14 April 2008 and the date of the first offence heard at this Court Hearing is 10 September 2007.
- the defendant is found guilty on 14 April 2008.
- the date on which a determination is made is 21 April 2008 and the start date of the disqualification period is 19 May 2008.
- the end date of the disqualification period is 12 May 2011, three years and 28 days from 14 April 2008.

If the first offence heard at the second court hearing occurred on or after 1 April 2008, the earliest start date of the disqualification period is the 29th day following the determination day. But the end date is five years and 28 calendar days from the date of the conviction.

#### **Example**

- the second court hearing is held on 20 October 2008 and the date of the first offence heard at this court hearing is 7 April 2008.
- the defendant is found guilty on 20 October 2008.
- the date on which a determination is made is 21 October 2008 and the start date of the disqualification period is the 19 November 2008.
- the end date of the disqualification period is 18 November 2013, five years and 28 days from 20 October 2008.

### **Benefit payable after the start of the sanctionable period**

Where the Two Strike indicator exists on the Customer Information System (CIS) and the benefit processor cannot trace the [TS2\(JCP\) \(link is external\)](#)/[TS2\(PDCS\) \(link is external\)](#), they will contact Counter Fraud and Compliance Directorate Local Service Investigations to establish if a Two Strike Loss Of Benefit penalty is appropriate and confirm the date the [TS3 \(link is external\)](#)/[TS3W \(link is external\)](#) was issued.

This information will be obtained from the Fraud Referral and Intervention Management System (FRAIMS).

## **05 Notifying the benefit processor**

### **Disqualifying and sanctionable benefits / credits**

Disqualifying and sanctionable benefits and credits are different depending on when the offences occurred.

For more information about sanctionable and disqualifying benefits, see:

**For offences periods beginning before 1 April 2013**

- [Sanctionable and disqualifying benefits/credits \(except Industrial Injury Scheme benefits/credits\)](#)
- [Sanctions and disqualifying Industrial Injury Scheme benefits/credits](#)

**For offences periods beginning on or after 1 April 2013**

- [Sanctionable and Disqualifying Benefits/Credits](#).

## **Determination Date**

The Determination Date is the date determined by the Secretary of State that a Loss Of Benefit penalty will apply and will be decided by Counter Fraud and Compliance Directorate (CFCD). In effect the Determination Date will be the date the CFCD investigator completes the Fraud Referral And Intervention Management System (FRAIMS) case record and issues the notification to the processor.

### **First sanctionable date**

The first possible date that a penalty can be applied will be the

- 29th day for DWP benefits
- 30th day for Standard Housing Benefit
- 31st day for Working Tax Credits following the Determination Date.

Benefit processors, including those at the Local Authority, Her Majesty's Revenue and Customs (HMRC) and Service Personnel and Veterans Agency (SPVA), will decide on the actual start date which will depend on the claimant's payday and whether benefit is paid in advance or arrears.

## **Other Government Department and Local Authority penalties and conviction**

Local Authorities (LAs) will notify the Counter Fraud and Compliance Directorate (CFCD) of all accepted Cautions and Administrative Penalties (Ad-Pens) and details of convictions in respect of LA investigations for benefit offences using the [FPA6 \(link is external\)](#). The form must be completed with the start and end date for all offences. For Single Fraud Investigations (SFI), investigators will complete the [LAIEF \(link is external\)](#) (Local Authority Information Exchange Form).

Her Majesty's Revenue and Customs (HMRC) and Service Personnel and Veterans Agency (SPVA) will notify CFCD of convictions in respects of their investigations using the [FPS6 \(link is external\)](#) form.

On receipt of the FPA6 / FPS6, take the following action:

- enter the details of the penalty on the Fraud Referral And Intervention Management System (FRAIMS). See FRAIMS guidance - [OGD / LA Outcome Notification received \(link is external\)](#)
- check the Customer Information System (CIS) to determine which benefit(s) are in payment
- if the penalty is a conviction, check FRAIMS to determine whether a record of a previous conviction(s), Caution or Ad-Pen is held.

## **Action to notify the benefit processor**



This action must be undertaken, wherever possible, within two working days of the recording on FRAIMS of the conviction result, or acceptance of a Caution issued by the Local Authority.

For Administrative Penalties this action must not be taken until the day after the 'Cooling off' period has expired.

The investigator will be required to check the Customer Information System (CIS) to identify which sanctionable benefits are currently in payment, or where no sanctionable benefit is currently in payment, the sanctionable benefits that were last paid.

Where the claimant has been convicted for offences which begin on or after 1 April 2013, it will also be necessary to establish if a Tax Credit or Service Personnel and Veterans Agency (SPVA) benefit is either in payment or was the last benefit in payment.

### **Non DWP benefits involved (does not apply to Single Fraud Investigations)**

The Counter Fraud and Compliance Directorate (CFCD) are responsible for taking this action on any case solely investigated and prosecuted by Local Authorities (LAs), Her Majesty's Revenue and Customs (HMRC) and SPVA.

When completing the forms to the LA and HMRC ensure that the correct date is input to notify the first possible date the Loss Of Benefit (LOB) can be applied from. This date will not be the same as the date used for Department for Work and Pensions (DWP) notifications. See [First Sanctionable Date](#) for details of the appropriate date to be used.

## **Notifications**

The investigator must notify all appropriate benefit processing sections, including [Local Authorities \(for Standard Housing Benefit\)](#), HMRC and SPVA using the following forms:

### **Offences period after 1 April 2002**

- [TS2 \(JCP\) \(link is external\)](#) or [TS2 \(PDCS\) \(link is external\)](#) for DWP benefits and
- [FPA7 \(OS\) \(link is external\)](#) for Standard Housing Benefit (HB).

### **Offences period begins on or after 1 April 2010**

- TS2 (JCP) or TS2 (PDCS) for DWP benefits and
- FPA7 (OS) for Standard HB.

### **Offences period begins on or after 1 April 2013**

If notifications are to be sent to her Majesty's Revenue and Customs (HMRC) a second separate LOB1 form must be issued as the first possible date to apply the LOB is 31 days.

- [LOB1 \(link is external\)](#) for DWP benefits and War Pensions and
- [FPA7 \(LOB\) \(link is external\)](#) for Standard HB and
- a separate LOB1 for Working Tax Credits

Note: Failing to issue the appropriate forms and record correctly on FRAIMS can mean:

- you fail to inform the customer of the outcome; their legal requirements; to inform and or release from a caution etc.
- incorrect amount of Benefit is paid, potential under or overpayments, official error overpayments with loss to the public purse
- avoidable rework to correct benefit payment and calculation of overpayment
- potential incorrect Total Corrective Value (TCV) measures

- you fail to make to claimant aware of possible impact on future claim to Benefits

If the Child Tax Credit is the only HMRC benefit in payment do not issue the LOB1 to HMRC.

Record the issue of the forms by recording an outbound correspondence activity on the Case and attaching a copy of the completed form. See FRAIMS guidance - [Notifying the Benefit Processor](#).

Ensure the following details have been completed on the notification forms:

- Determination Date – this is the date you have determined that a LOB penalty is appropriate, this will be today's date,
- First possible date that a penalty can be applied / First sanctionable date – insert the following:
  - 29th day following the Determination Date for notifications for DWP and Service Personnel and Veterans Agency (SPVA) benefits
  - 30th day following the Determination Date for Local Authority Standard Housing Benefit
  - 31st day following the Determination Date for HMRC Working Tax Credit
- Loss of Benefit warning letter issued to claimant on – the date the LOB notification was issued to the claimant
- Notification Details – Insert 'x' for each benefit that is in payment or was last in payment, if no current benefit(s) are in payment.  
**TS2(JCP) (link is external), TS2(PDCS) (link is external) and LOB1 (link is external)**
- Enter date of conviction or the date the claimant/partner accepted the Caution or Ad-Pen.  
**TS2 (Two Strikes)**
- Last sanctionable date – insert the date when the disqualifying period ends. This is 13 weeks from the first sanctionable date
- Date of claimant / partner's first / previous conviction – insert the date on which the claimant / partner was convicted (found guilty) of the offences
- Date of claimant / partner's subsequent conviction – insert the date on which the claimant / partner appeared at their second or subsequent court hearing and was convicted (found guilty) of the offences at the second / subsequent hearing.

## Issuing notifications

Send copies of the notifications to the:

- appropriate Benefit Delivery Centre (BDC)
  - Pension Centre Fraud Single Point of Contact (SPOC)
  - Carers Allowance Operational Area
  - [Local Authority](#) (LA) - for Single Fraud Investigations (SFI) cases, notifications must be made on the Local Authority Information Exchange Form (LAIEF)
  - SPVA SPOC for War Pensions
  - HMRC SPOC for Working Tax Credits – for offences after 6 April 2013 only.
- Record the issue of the LOB form(s) on the Fraud Referral And Intervention Management Team (FRAIMS). See FRAIMS guidance - [Loss Of Benefit notifications](#).

### SPVA - for War Pensions

All notifications must be sent to the Single Point of Contact email address: [Redacted].

### Carers Allowance

Email the notification to the CA Operational Area EO Performance Manager according to the alphabetical split. See the [CAU Operational Area – Contact Us \(link is external\)](#) web page for details of the alphabetical splits.

### Universal Credit

If during checks it is established that Universal Credit is, or was the last benefit in payment, email the LOB1 form to: [Redacted].

## **HMRC - for Working Tax Credits**

If during checks it is established that Working Tax Credits is, or was the last benefit in payment, email the LOB1 form to the HMRC Single Point of Contact email address:

**[Redacted]**

## **Contact from HMRC**

If Her Majesty's Revenue and Customs (HMRC) have a query regarding the information provided on the LOB1 form, they will contact the investigator by telephone, or exceptionally by email, to obtain further information.

The Counter Fraud and Compliance Directorate (CFCD) must provide a response to the contact within 10 working days.

## **Single Fraud Investigations**

When the LOB notifications have been issued, notify the Local Authority (LA) by [scanning](#) the notifications and embed the form in part 9 of the [LAIEF \(link is external\)](#) and email it to the LA SPOC.

## **Action to notify the Local Authority processor for Standard Housing Benefit**

The first possible day the Loss of Benefit (LOB) penalty can be applied from for Standard Housing Benefit is the 30th day following the Determination Date

If Standard Housing Benefit (HB) is in payment, or was the last benefit in payment, take the following action:

### **Offence period begins on or after 1 April 2010**

Where the claimant has accepted a Caution or Administrative Penalty or the claimant has been convicted for a first offence or for a second or subsequent offence which does not link:

- complete and send the [FPA7\(OS\) \(link is external\)](#)
- the disqualification period will be four weeks.

### **Second conviction for a benefit offence beginning prior to 1 April 2013**

Where the second conviction is within the five year linking period to a previous conviction:

- complete and send the [FPA7\(TS\) \(link is external\)](#)
- the disqualifying period will be 13 weeks during a determination period of five years.

### **Offence period begins on or after 1 April 2013**

Where the period of offences begins on or after 1 April 2013:

- complete and send the [FPA7 \(LOB\) \(link is external\)](#)
- the disqualifying period will be:
  - Caution / Ad-Pen – Level 1 penalty of four weeks
  - First conviction – Level 2 penalty of 13 weeks
  - Second offence (within the linking period), where the latest offence results in a conviction – Level 3 penalty of 26 weeks
  - Third offence (within the linking period), where the latest offence results in a conviction – Level 4 penalty of three years
  - Convictions involving serious organised benefit or identity fraud – Level 5 penalty of three years.

For more information on calculating linking periods and the escalation route, see [Escalation and linking](#).

The Local Authority (LA) is responsible for issuing letter [LBS1AC \(link is external\)/LBS1\(AC\)W \(link is external\)/LOB\(AC\) \(link is external\)/LOB\(AC\)W \(link is external\)](#) to the claimant following the acceptance of a Caution or Ad-Pen.

## 06 Appeals and Reconsiderations

### Action after a successful appeal

#### Convictions

1. If a conviction for a benefit offence is quashed as a result of an appeal, a Loss of Benefit (LOB) penalty may no longer be appropriate and the claimant (or their partner or a member of their family who is claiming for them) must be reimbursed if a LOB penalty has been applied during the Disqualification period.
2. In these cases the Crown Prosecution Service/Procurator Fiscal will notify the Digital Case Management Unit / Central Prosecution Team, as soon as a conviction has been quashed as a result of a successful appeal.

#### Administrative Penalties

3. If the amount of the overpayment is revised following a successful benefit appeal or re-consideration by the Decision Maker and an Administrative Penalty (Ad-Pen) has already been accepted by the claimant, the original Ad-Pen agreement becomes null and void.
4. In these cases a LOB penalty will no longer be appropriate in respect of that Ad-Pen acceptance and the claimant must be reimbursed if a LOB penalty has been applied during the disqualification period.
5. Where a claimant is then offered and accepts a new Ad-Pen agreement, a new LOB determination should be made and normal loss of benefit action taken.

#### Appeal or reconsideration against imposition of penalty for DWP benefits

6. The only grounds of appeal are that any of the convictions were wrong or that the offender did not commit the benefit offence(s) for which there has been an agreement to pay an Ad-Pen or a caution has been accepted. The decision to impose a LOB penalty may be changed only if one of the following circumstances apply:

- the LOB penalty was not imposed against the correct person
  - the LOB penalty was imposed for the incorrect amount or period
  - part of the offence occurred before the start date for the LOB penalty given
  - the Disqualification period on the [TS2\(JCP\) \(link is external\)/TS2\(PDCS\) \(link is external\)/LOB1 \(link is external\)](#) is incorrect
7. If a claimant lodges an appeal or asks for a re-consideration, Counter Fraud and Compliance Directorate (CFCD) will be asked by a decision maker to confirm:
- the person against whom the LOB penalty has been imposed is the correct person i.e. is the person who has:
    - - been convicted for a benefit offence
      - accepted a caution or Ad-Pen for a benefit offence
    - that the offences occurred for the correct period for the period of LOB penalty
    - the disqualification period on the [TS2\(JCP\)/TS2\(PDCS\)/LOB1 \(link is external\)](#) is correct
8. Following the check CFCD will confirm the claimant is the right person and information on the [TS2\(JCP\)/TS2\(PDCS\)/LOB1 \(link is external\)](#) is correct by completing and returning the [LOB2B \(link is external\)](#) to the decision maker.
9. Record the issue of the LOB2B as an outbound correspondence on the case and attach a copy of the notification.

## Refund of Loss of Benefit penalty

10. The [LOB2A \(link is external\)](#) must be sent to each of the benefit processing areas that were issued with a TS2 / LOB1 if the following occur:

- notification is received that the conviction has been quashed
- the overpayment has been revised after the acceptance of an Ad-Pen
- the claimant is not the right person
- the information on the TS2(JCP)/TS2(PDCS)/[LOB1 \(link is external\)](#) is incorrect.

11. This form advises the benefit processor of the successful appeal or re-consideration and requests that if the LOB penalty has already been imposed, the claimant (or their partner or a member of their family who is claiming for them) is refunded.

12. The issue of the LOB2A must be recorded on FRAIMS.

## Action after revision of overpayment

13. A Caution, Ad-Pen or prosecution may still be appropriate following a successful benefit appeal or reconsideration, however a LOB penalty cannot be considered until the Caution or Ad-Pen is accepted or the claimant is prosecuted in respect of the revised amount. There is no need to delay the process due to the appeal if a prosecution is appropriate.

# 07 Sanctionable and disqualifying benefits and credits

## Sanctionable and disqualifying benefits/credits, except Industrial Injury Scheme benefits/credits prior to 1 April 2013

1. The following table relate to offences which begin before 1 April 2013
2. Some benefits are disqualifying but not sanctionable, Column B, and others are both disqualifying and sanctionable, Column C.
3. Benefits listed in Column A are not disqualifying or sanctionable.
4. Accordingly, an offence may be committed against a disqualifying benefit but the penalty would be imposed on a different but sanctionable benefit.
5. Most benefits are disqualifying, meaning that fraud against them would trigger the loss of benefit penalty to all sanctionable benefits the claimant is receiving.
6. Some benefits are disqualifying but not sanctionable. The reason for this tends to be the reason why the benefit is paid; for example, if paid to meet the extra costs of disability or retirement pension. The Department sees these benefits as falling in categories of extra need, for the benefit of others, or protecting claimants that might be especially vulnerable to hardship.
7. More information regarding the impact of Loss Of Benefits can be found in the benefit specific guidance.

A	B	C
Benefits/credits that are not 'Disqualifying' or	Benefits/credits that are 'Disqualifying' but not	Benefits/credits that are both 'Disqualifying' and

<b>‘Sanctionable’</b>	<b>‘Sanctionable’</b>	<b>‘Sanctionable’</b>
Maternity Allowance	State Pension	Income Support
Statutory Maternity Pay	Jobseeker’s Allowance (Joint Claim Couples) **	Jobseeker’s Allowance (single person and non-joint claim couples) #
Statutory Sick Pay	Graduated Retirement Pension	Standard Housing / Council Tax Benefit
Statutory Adoption Pay	Disability Living Allowance	Incapacity Benefit #
Statutory Paternity Pay	Attendance Allowance	Carer’s Allowance #
Health in pregnancy Grant	Child Benefit	War Pensions #
Working Tax Credit	Guardian’s Allowance	Widows Pension / Bereavement Allowance #
Child Tax Credit	Social Fund Payments	Widowed Mothers / Parents Allowance #
Pneumoconiosis (Workers’ Compensation) 1979	Christmas Bonus	Industrial Injuries Disablement Pension #
2008 Diffuse Mesothelioma Scheme	Industrial Injuries (inc. Old Cases) Constant Attendance Allowance *	Industrial Death Benefit #
Bereavement Support Payment	Industrial Injuries Exceptionally Severe Disablement Allowance *	All other Industrial Injuries Scheme Benefits not covered elsewhere in the table

		#
	War Pensions Exceptionally Severe Disablement Allowance *	Pension Credit
	War Pensions Constant Attendance Allowance *	Employment and Support Allowance (Contributory) #
	War Pensions Mobility Supplement *	Employment and Support Allowance (Income Related)
	Bereavement Payment *	Universal Credit
	Passported Housing Benefit / Council Tax Benefit	

## Notes

*	The Social Security Fraud Act 2001 does not specify these benefits/credits. However, the Social Security (Loss Of Benefit) Regulations 2001 define these as non-sanctionable (SI2001/4022)
#	These benefits/credits will be withdrawn for the duration of the sanctionable period but the claimant is able to claim/apply for either:  Income Support / Employment and Support Allowance (Income Related) at a reduced rate, or Pension Credit at a reduced rate, or Jobseekers Allowance on ground of hardship
**	The member of the couple who isn't the offender can receive Jobseekers Allowance (JSA) as a single person without having to apply for hardship payments.

8. Depending on the benefit/credit being claimed, a Loss Of benefit penalty can be:

- a disqualification or a reduction

- applied to all sanctionable benefits/credits when entitlement exists for any period during the disqualification period, regardless of whether the offence was committed against that benefit/credit
  - a lesser sum which would leave benefit in payment of 10p a week
9. The reduction is equivalent to:

- 40% of the relevant Income Support (IS) single person's allowance
- 20% of the relevant IS single person's allowance if the claimant or other member of their family is seriously ill or pregnant

10. A list of all other Industrial Injury scheme benefits is shown on Appendix 1a.

### **Sanctionable and disqualifying Industrial Injury Scheme benefits/credits**

#### **Industrial Injury Scheme benefits that are both 'Disqualifying' and 'Sanctionable' not already listed in previous table**

<b>Benefit</b>	<b>Legislation</b>
Industrial Injuries Disablement Pension (IIDB)	Social Security Contributions and Benefits Act 1992 ss 94 - 101, 103, 106 - 110 and Schedule 4, Part V (1)
Reduced Earnings Allowance (REA)	SS C & B Act 1992 Schedule 7, Part IV
Retirement Allowance (RA)	SS C & B Act 1992 Schedule 7, Part V
Industrial Death Benefit (IDB)	SS C & B Act 1992 Schedule 7, Part VI
Unemployability Supplement (US)	SS C & B Act 1992 Schedule 4, Part V (5 & 6) and Schedule 7, Part I
Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme (PBMDB)	SS C & B Act 1992 s 111
Workmen's Compensation (Supplementation) Scheme 1982	SS C & B Act 1992 s 111

### **Sanctionable and disqualifying benefits or credits on or after 1 April 2013**



11. The following table relate to offences which begin on or after 1 April 2013

12. Some benefits are disqualifying, but not sanctionable, Column B, and others are both disqualifying and sanctionable, Column C.

13. Benefits listed in Column A are not disqualifying or sanctionable.

14. Accordingly, an offence may be committed against a disqualifying benefit but the penalty would be imposed on a different but sanctionable benefit.

15. Most benefits are disqualifying, meaning that fraud against them would trigger the loss of benefit penalty to all sanctionable benefits the claimant is receiving.

16. Some benefits are disqualifying but not sanctionable. The reason for this tends to be the reason why the benefit is paid; for example if paid to meet the extra costs of disability or retirement pension. The Department sees these benefits as falling in categories of extra need, for the benefit of others, or protecting claimants that might be especially vulnerable to hardship.

17. More information regarding the impact of Loss Of Benefits can be found in the benefit specific guidance.

<b>A</b>	<b>B</b>	<b>C</b>
<b>Benefits/credits that are not 'Disqualifying' or 'Sanctionable'</b>	<b>Benefits/credits that are 'Disqualifying' but not 'Sanctionable'</b>	<b>Benefits/credits that are both 'Disqualifying' and 'Sanctionable'</b>
Maternity Allowance	State Pension	Income Support
Statutory Maternity Pay	Jobseeker's Allowance (Joint Claim Couples) *	Jobseeker's Allowance (single person and non-joint claim couples) #
Statutory Sick Pay	Graduated Retirement Pension	Standard Housing / Council Tax Benefit **
Statutory Adoption Pay	Disability Living Allowance	Incapacity Benefit #
Statutory Paternity Pay	Attendance Allowance	Carer's Allowance #
Health in Pregnancy Grant	Child Benefit	Widows Pension / Bereavement Allowance #

Pneumoconiosis (Workers' Compensation) 1979	Guardian's Allowance	Widowed Mothers / Parents Allowance #
2008 Diffuse Mesothelioma Scheme	Social Fund Payments	Industrial Injuries Disablement Pension #
	Christmas Bonus	Industrial Death Benefit #
	Industrial Injuries (inc. Old Cases) Constant Attendance Allowance	Reduced Earning Allowance #
	Industrial Injuries  Exceptionally Severe Disablement Allowance	Retirement Allowance #
	War Pensions  Exceptionally Severe Disablement Allowance	Unemployability Supplement #
	War Pensions Constant Attendance Allowance	Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme #
	War Pensions Mobility Supplement	Workmen's Compensation (Supplementation) Scheme 1982 #
	Bereavement Payment	State Pension Credit
	Linked Housing	Employment and Support Allowance (Contributory) #

	Benefit / Council Tax Benefit	
	Child Tax Credit	Employment and Support Allowance (Income Related) ##
	Personal Independence Payment	Severe Disablement Allowance #
		Working Tax Credit
		Universal Credit ##
		War Pension (War Disablement Pension) #
		War Widows Pension #
		War Pensioners Mobility Supplement #
		War Pension Unemployability Supplement #
		War Pension Constant Attendance Allowance #
		War Pension Allowance for Lower Standard of Occupation #
Notes		
*	Section 8 Social Security Fraud Act 2001 – effect on joint claims applies.	

**	Whilst Council Tax Benefit (CTB) remains a sanctionable benefit, as CTB will no longer exist from 1 April 2013 and the new Loss Of Benefit levels come into force from 1 April 2013, CTB will not be sanctioned following the introduction of the new Council Tax Support, referred to in Department for Work and Pensions as Council Tax Local Scheme.
#	Payment withdrawn completely (other benefits are a reduced payment).
##	For claimants, partners or family members in receipt of ESA(IR) or UC, their benefit may be completely withdrawn, or reduced, depending on the conditions for receipt of those benefits.

## 08 Loss of Benefit Forms for Administrative Penalty or Formal Caution

### 1.0 LOB action following Administrative Penalty or Caution

#### 1.1 Offence wholly commenced on or after 1 April 2010 and before 31 March 2013 known as 'One Strike'.

1 . 2	Accepts Ad Pen or Caution	Loss of Benefit Penalty of 4 weeks
1 . 3	<p>Determine which <a href="#">sanctionable and disqualifying benefits (link is external)</a> or credits apply to customer or partner (if customer included in their claim).</p> <p>A sanctionable benefit or credit is one to which a LOB Penalty can be applied.</p> <p>A disqualifying benefit or credit is one where fraud against them would trigger the loss of benefit penalty to all the customers or partners (if customer included in their claims sanctionable benefits.</p>	
1 . 4	<p>Check the Customer Information System (CIS) to identify which sanctionable benefits are currently in payment to customer or partner (if customer included in their claims), or where no sanctionable benefit is currently in payment, the sanctionable benefits that were last paid.</p>	

1 . 5	Decide <a href="#">Determination and 1<sup>st</sup> Sanctionable date</a> (link is external). Determination date: date Fraud Referral And Intervention Management System (FRAIMS) case record updated and notification issued.  1st Sanctionable date is the earliest date the LOB penalty can be applied:  DWP Benefits - 29 <sup>th</sup> day following Determination Date Standard Housing Benefit - 30 <sup>th</sup> day following Determination Date. Benefit Processors or LA decide actual start date of sanction.	
1 . 6	<b>Issue Notifications</b> on day after 'cooling off' period for Ad Pens or within 2 working days as follows:	
	Customer - following acceptance of Ad Pen or Caution.	<a href="#">LOB (AC)</a> (link is external) / <a href="#">LOB (AC)W</a> (link is external)
	Benefit Processors.	<a href="#">TS2(JCP)</a> (link is external) or <a href="#">TS2(PDCS)</a> (link is external)
	Local Authority (LA) if Standard Housing Benefit in payment or was last benefit in payment.	<a href="#">LAIEF</a> (link is external) Section 9 plus <a href="#">FPA7 (OS)</a> (link is external)
	Carers Allowance Unit.	<a href="#">LOB1</a> (link is external) to CA Operational Area Performance Manager see – CAU Operational Area – Contact Us web page.
Record the LOB activity on the FRAIMs case.  See: FRAIMS guidance – <a href="#">Recording Loss of Benefit determination</a> (link is external)		

## Loss of Benefit Forms – Prosecutions

### 1.0 LOB action following Prosecution

#### 1.1 Offence wholly committed before 01/04/2010 - known as 'Two Strikes'

1	Is this a 1 <sup>st</sup> conviction?	Yes – No LOB penalty applies. Go to 2.  No – Go to 5	
2	FRAIMS automatically calculates if Loss Of Benefit (LOB) penalty applies automatically populates 'Two Strike Start Date' field on the Contact More Info view and issues start date to Customer Information Service (CIS). This is the date the verdict was delivered		
3	Check CIS to ensure that the Two Strike Start Date box has been completed in FRAIMs. If not issue <a href="#">TS2 (link is external)</a> to Benefit Processing Section and record on FRAIMs activity		
4	Issue TS1 to customer <b>LOB action ends</b>		
5	Is this a 2 <sup>nd</sup> or subsequent conviction?	Yes – Go to 6	
6	Do all convictions relate to offences which occurred on or after 1 April 2002?	Yes – Go to 7  No – Go to 3	
7	Check whether convictions link for Two Strikes purposes	offence for 2 <sup>nd</sup> or subsequent conviction commenced before 1/4/2008, 5 year linking rule applies  offence for 2 <sup>nd</sup> or subsequent conviction commenced on or after 1/4/2008, 3 year linking rule applies	Convictions link:  Yes – Go to 8  No – Go to 3
8	Determine which <a href="#">sanctionable and disqualifying (link is external)</a> benefits apply A sanctionable benefit is one to which a LOB Penalty can be applied  A disqualifying benefit is one where fraud against them would trigger a LOB penalty to be applied to all sanctionable benefits		Yes – Go to 9

9	Two Strike LOB penalty is 13 weeks	
10	Check the Customer Information System (CIS) to identify which sanctionable benefits are currently in payment to customer or partner (if customer included in their claim(s)) or where no sanctionable benefit is currently in payment, those that were last paid. LOB notifications must be sent to all of these.	
11	<p>Calculate <a href="#">disqualification period</a> (link is external).</p> <p>Disqualification period is the period during which the 13 week LOB Penalty can be applied to all sanctionable benefits. Where no sanctionable benefit is currently in payment, this is the period during which the LOB Penalty will be held and applied should the customer or partner (if customer included in their claim) make a successful claim.</p> <p>The disqualification period commences on date of conviction and ends:</p> <p>28 calendar days and 5 years if offence commenced prior to 1/4/2008</p> <p>28 calendar days and 3 years if offence commenced on or after 1/4/2008</p>	
12	<p>Decide <a href="#">Determination and 1st Sanctionable</a> (link is external) date to record on notifications</p> <p>Determination date: is the date Fraud Referral And Intervention Management System (FRAIMS) case record updated and notification issued</p> <p>1st Sanctionable date:</p> <p>For DWP Benefits and Standard Housing Benefit - 29th day following Determination Date</p>	
13	<b>Issue Notifications</b>	
	<p>To the customer:</p> <p>5 year linking rule applies</p> <p>3 year linking rule applies</p>	<p><a href="#">TS3A</a> (link is external) / <a href="#">TS3AW</a> (link is external)</p> <p><a href="#">TS3</a> / <a href="#">TS3W</a> (link is external)</p>
	DWP Benefit Processing Section	<a href="#">TS2</a> (link is external)
	Local Authority (for Housing	<a href="#">LAIEF</a> (link is external) Section 9 and <a href="#">FPA7(TS)</a>

Benefit)	<a href="#">(link is external)</a>
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## 1.2 Offence wholly committed on or after 01/04/2010 and up to and including 31/03/2013 – known as One Strike

1	Is this a first conviction where offence(s) committed on or after 1 April 2010 and before 31/03/2013?	<p>Yes - 4 week disqualification period, Go to 3.</p> <p>No – Go to 2.</p>
2	Check whether conviction is within 3 or 5 year linking period of previous conviction.	<p>Yes - If new conviction is within the three or five year linking period of a previous conviction <b><u>Go To point 6, Offence wholly committed before 01/04/2010 - known as 'Two Strikes'</u></b></p> <p>No – Go to 3</p>
3	Check the Customer Information System (CIS) to identify which sanctionable benefits are currently in payment to customer or partner (if customer included in their claim(s)) or where no sanctionable benefit is currently in payment, those that were last paid. LOB notifications must be sent to all of these.	
4	<p>Determine which <a href="#">sanctionable and disqualifying benefits (link is external)</a> apply</p> <p>A sanctionable benefit is one to which a LOB Penalty can be applied</p> <p>A disqualifying benefit is one where fraud against them would trigger a LOB penalty to be applied to all sanctionable benefits</p> <p>The Counter Fraud and Compliance Directorate (CFCD) are responsible for taking this action on any case solely investigated and prosecuted by Local Authorities (LAs) and SPVA.</p>	
5	<p>Decide <a href="#">Determination and 1st Sanctionable (link is external)</a> date to record on notifications</p> <p>Determination date: date Fraud Referral And Intervention Management System (FRAIMS) case record updated and notification issued</p> <p>1st Sanctionable date:</p>	



	<p>For DWP Benefits - 29th day following Determination Date</p> <p>For Housing Benefit - 30th day following Determination Date</p> <p>Benefit processors, including those at the Local Authority and Service Personnel and Veterans Agency (SPVA), will decide on the actual start date dependant upon claimant's payday and whether benefit paid in advance or arrears</p>	
6	<b>Issue Notifications</b>	
	To the customer (within 2 days of conviction notification)	<a href="#">LBS1P</a> (link is external) / <a href="#">LBS1PW</a> (link is external)
	DWP Benefit Processing Sections	<a href="#">TS2(JCP)</a> (link is external), <a href="#">TS2(PDCS)</a> (link is external) and <a href="#">LOB1</a> (link is external)
	Local Authority (for Standard Housing Benefit)	<a href="#">LAIEF</a> (link is external) Section 9 and <a href="#">FPA7(OS)</a> (link is external) scan the notifications and embed the form in part 9 of the LAIEF and email it to the LA SPOC.
	SPVA - for War Pensions	<a href="#">LOB1</a> (link is external) to the Single Point of Contact email address: <b>[Redacted]</b>
	Carers Allowance	<a href="#">LOB1</a> (link is external) to the CA Operational Area EO Performance Manager according to the alphabetical split. See the <b>[Redacted]</b> web page for details of the alphabetical splits.

Record the issue of the forms by recording an outbound correspondence activity on the Case and attaching a copy of the completed form. See FRAIMS guidance - [Notifying the Benefit Processor](#) (link is external)

### 1.3 Offence wholly committed on or after 01/04/2013

1	Is this the first conviction or no other convictions or sanctions (Ad Pens or Cautions) where offence(s) committed on or after 1	<p>Yes - Go to 2</p> <p>No – Go to The escalation and linking rules</p>
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	April 2013?	(include Cautions/ Ad-Pens accepted by the claimant as well as convictions).
These Loss Of Benefit (LOB) penalties do not link to the previous LOB ('One / Two Strike') penalty regime, all offences must have occurred wholly on or after 1 April 2013.		
2	<p><a href="#">Linking Periods and Escalation</a> (link is external)</p> <p>A 5 year linking period applies to all offences (Convictions, Ad Pens and Cautions) beginning on or after 1 April 2013.</p> <p>Periods link if the start date of the second or subsequent offence period is within five years of the end date of the previous offence period.</p> <p>The linking period for offences will be five years, however it is not necessary for a third or subsequent offence period to be within five years of the first, see Escalation and Linking for more details.</p> <p>Escalation and penalties for linking offences</p> <p>1<sup>st</sup> conviction – Level 2 - 13 week penalty (if 1<sup>st</sup> offence is Ad Pen or Caution, Level 1 - 4 week penalty)</p> <p>2<sup>nd</sup> Offence is conviction – Level 3 -26 week penalty</p> <p>3<sup>rd</sup> Offence is conviction – Level 4 – 3 year penalty</p> <p>Conviction for serious, organised benefit or identity fraud – Level 5 – immediate 3 year penalty</p>	
3	<p>Check the Customer Information System (CIS) to identify which sanctionable benefits are currently in payment to customer or partner (if customer included in their claim(s)) or where no sanctionable benefit is currently in payment, those that were last paid. LOB notifications must be sent to all of these.</p> <p>NB: Tax Credits included</p>	
4	<p>Determine which <a href="#">sanctionable and disqualifying benefits</a> (link is external) apply</p> <p>A sanctionable benefit is one to which a LOB Penalty can be applied</p> <p>A disqualifying benefit is one where fraud against them would trigger a LOB penalty to be applied to <u>all</u> sanctionable benefits</p> <p>The Counter Fraud and Compliance Directorate (CFCD) are responsible for taking this action on any case solely investigated and prosecuted by Local Authorities (LAs), Her Majesty's Revenue and Customs (HMRC) and SPVA.</p>	

5	<p>Decide <a href="#">Determination and 1st Sanctionable</a> (link is external) date to record on notifications</p> <p>Determination date: date Fraud Referral And Intervention Management System (FRAIMS) case record updated and notification issued</p> <p>1st Sanctionable date:</p> <p>For DWP Benefits - 29th day following Determination Date</p> <p>For Standard Housing Benefit - 30th day following Determination Date</p> <p>Working Tax Credits - 31st day following Determination Date</p> <p>Benefit processors, including those at the Local Authority, Her Majesty's Revenue and Customs (HMRC) and Service Personnel and Veterans Agency (SPVA), will decide on the actual start date dependant upon claimant's payday and whether benefit paid in advance or arrears.</p>	
6	<p><a href="#">LOB retention</a> (link is external)</p> <p>The LOB1 is retained by the benefit processing area to allow for cases where the claimant is not in receipt of benefit at the time the determination date is decided, retention periods as follows:</p> <p>Level 1 – retained for 8 weeks</p> <p>Level 2 – retained for 17 weeks</p> <p>Level 3 –retained for 30 weeks</p> <p>Level 4 - retained for 37 months</p> <p>Level 5 - retained for 37 months</p>	
7	<b>Issue Notifications</b>	
	To the customer (within 2 days of conviction notification)	<a href="#">LOB(P)</a> / <a href="#">LOB(P)W</a> (link is external)
	DWP Benefit Processing Sections	<a href="#">LOB1</a> (link is external) <u>see LOB retention</u>
	Local Authority (for Standard Housing Benefit)	<a href="#">LAIEF</a> (link is external) Section 9 and <a href="#">FPAZ (LOB)</a> (link is external)
	HMRC (for Working Tax Credits)	Additional <a href="#">LOB1</a> (link is external) to HMRC Single Point of Contact email address: <b>[Redacted]</b>

	SPVA - for War Pensions All notifications must be sent.	to the SPVA Single Point of Contact email address: <b>[Redacted]</b>
	Universal Credit	email the <a href="#">LOB1 (link is external)</a> form to: <b>[Redacted]</b>
	Carers Allowance	<a href="#">LOB1 (link is external)</a> emailed to CA Operational Area EO Performance Manager according to <a href="#">CAU Operational Area (link is external)</a> – Contact Us web page splits.
Record the issue of the forms by recording an outbound correspondence activity on the Case and attaching a copy of the completed form. See FRAIMS guidance - <a href="#">Notifying the Benefit Processor</a>		

# Movement of Documents

## 00 Introduction

### Introduction

1. This section gives guidance on the movement of documents and the action that must be taken to ensure that personal data is transported securely when sending it by:

- e-mail
- TNT Courier
- Cofely
- Royal Mail
- hand
- facsimile (Fax)

2. From 2 April 2014, the Government Security Classifications were introduced, this provides three tiers of information classification:

- Official
- Secret and
- Top Secret.

3. In general, the majority of the Department's information falls into the 'Official' tier, however some information being transferred by the Counter Fraud and Compliance Directorate may fall into the 'Official – Sensitive' classification.

4. Decisions on the handling and classification of particular information assets are to be taken by individuals where they are responsible for the creation or authorship of such information, for example a document produced by CFCD.

5. Although information within the 'Official' tier will not be marked, a handling caveat of 'Official – Sensitive' should be used when it relates to the movement of investigation documentation by CFCD.

6. For further information about the Government Security Classifications, see [DWP Guidance – Protective Marking and Secure Handling of Information \(link is external\)](#).

7. If a document received from within Department for Work and Pensions (DWP) requires protective marking and has none it should be returned to the originator to be marked.

## 01 Electronic Mail

### Security markings

1. Wherever possible, electronic mail (e-mail) should be used when sending data within the Department for Work and Pensions (DWP).

2. The Department's information should only be accessed, obtained or transferred where the employee has a legitimate business reason for doing so.

3. Information should only be sent, shared with or copied to others where they are entitled to be given access to that information.

4. Before sending an email the investigator must consider if the information provided in the email to be sent requires higher classification than the default 'Official' classification in line with the Government Security Classifications (GSC).

5. Where it is determined that the email contains information which meets the GSC of 'Official – Sensitive' this marking must be annotated on the email subject line.

6. For full details of the Government Security Classifications, see [Security Classification Scheme and Secure Handling Of Information](#).

### E-mail attachments

7. Investigators must ensure that e-mail attachments, particularly those originating within DWP, are examined and the correct GSC marking applied.

8. Do not add a protective marking to attachments that originated from an external source for example, information supplied by a Credit Reference Agency as this is governed by the sender's marking policy.

### E-mail to Government Secure Internet compliant recipients

9. Additional protection such as encryption is not necessary if sent within the Government Secure Internet (GSI) community, such as, GSI, GSX, GCSX, GSE, PNN.police.uk, [Criminal Justice Secure e-mail \(CJSM\)](#) and [@ombudsman.org.uk](#).

### E-mail to non GSi compliant recipients

10. E-mails containing Official - Sensitive information must not be sent to addresses other than those listed in the previous paragraph, unless DWP authorised encryption is in place.

11. Information that does not require a protective marking may be sent outside the GSI network providing that the [DWP Electronic Media Policy](#) is followed.

12. If this information could elicit an e-mail response, the following text must be added by the Counter Fraud and Compliance Directorate (CFCD) investigator after the e-mail signature as any response could contain personal information:

Internet e-mail is not a secure medium. Any reply to this message could be intercepted and read by someone else. Please bear this in mind and refer to your organisation's e-mail security policy (including consideration of encryption) when deciding whether to send material by e-mail in response to this message.

13. It is considered good practice for investigators to set up two e-mail signatures using Microsoft Office>Tools>Options>Mail Format. The second signature should contain the above text.

## Encryption

14. It will only be necessary to consider encryption in exceptional cases.

15. Encryption must be used when sending personal or sensitive information by external e-mail, for example, outside the Government Secure Internet (GSI), because there is an increased risk of interception or loss.

16. If data pens are used these must also be officially issued encrypted Department for Work and Pension (DWP) pens.

17. OED will then advise how this data should be sent.

## 02 Courier

### Courier

1. TNT provides three courier services to the Department as part of the Cross Government Courier Contract. These are:

- Sameday (Dedicated Vehicle) Secure Service
- Standard Service
- Fully Tracked Service

2. Further details of the TNT courier services can be found in the [Aide memoir for distribution of mail \(link is external\)](#).

### **Sameday (Dedicated Vehicle) Secure Service**

3. You must refer to [Commercial Directorate \(link is external\)](#) instructions and consult Departmental Security Team and/or Commercial Directorate before using this service.

4. Same day (Dedicated Vehicle) Secure Service is the most secure. Items collected are taken directly to destination in the same vehicle.

5. This service should only be used for clerical documents in sensitive cases or where a large quantity of sensitive data needs transporting.

### **Standard Service**

7. The Standard Service is the basic courier service. Items sent are not tracked and not traceable whilst in the TNT network. You should use this when sending documents that do not include personal data or other sensitive information.

8. Standard mail is couriered only in purple polylopes. You must use the one line courier address. Only use the Standard Service to send items to locations listed in the [Courier Address \(link is external\)](#) list.

### **Fully Tracked Service**

9. The Fully Tracked Service has on-line tracking available. You must complete the Consignment books, a Documented account and Fully Tracked Documented polylopes (orange)

10. There are different tariffs available within the Fully Tracked Service, the Counter Fraud and Compliance (CFCD) must request the 'Standard' service.

11. You must use the Fully Tracked Service when sending personal information contained within the documents, files, audio or video tapes, discs and so on.

12. You must use the real postal address or location of the destination. Do not use the Fully Tracked Service to send items to a Mail Opening Unit or PO Box or use the one line courier address.

13. Complete the sender's full address on the reverse of the polylope.

14. Place all fragile and non standard consignments in a padded box or 'jiffy'bag such as:

- audio discs
- video tapes or DVDs
- memory sticks
- hard drives
- fragile items seized during search and seizure

15. Take the following action when sending a package by Fully Tracked.

### **Interserve Workplace service available**

16. If the sending site operates a Interserve messenger service, take the following actions:

- complete a consignment note from the consignment book
- complete the recipient and sender's addresses in full
- select the 'Standard' service
- affix a barcode from the reverse of the consignment note on the package
- use one consignment note and barcode per package
- ensure that the package is secure

17. You must hand the Consignment Book and package(s) to the Interserve Office Service Agent (OSA) who will arrange for the Consignment Book to be signed by the TNT driver. The driver will retain their copy from the book.

18. When the driver has signed the book, the OSA will return it to the Counter Fraud and Compliance (CFCD) officer responsible for sending consignments of protective marked documents by TNT.

### **Interserve Workplace service not available**

19. When there is no Interserve messenger service on site, Counter Fraud and Compliance (CFCD) will be responsible for:

- logging and packaging all items
- handing the packages to the TNT driver
- ensuring the Consignment Book is signed by the driver

### **Complaint procedure**

20. All incidents of lost, missing, damaged or mis-delivered consignments must be reported to the following:

- TNT Helpdesk - Telephone on [Redacted]. The TNT helpdesk will provide advice and guidance concerning your enquiries about consignments. They should be contacted if a consignment has not been receipted
- Security Advisor
- line manager.

21. If further information is required see the [Employer Knowledge - TNT](#) or [TNT Courier Service](#)

## Other Methods

1. Before sending any information the investigator must consider if the information being sent requires a protective marking in line with the [Government Security Classification \(GSC\)](#) ([link is external](#)).

### Royal Mail

2. Royal Mail services can be considered when the TNT courier service cannot be used, for example: the documents are to be delivered to a private address, or in the circumstances, Royal Mail offers the most appropriate service. The envelope must be properly sealed.

3. Use the Royal Mail Special Delivery Service when the documents being sent are particularly sensitive as it offers a track and trace service.

4. Do not put any protective marking on the outer envelope when Royal Mail services are used.

### Hand / Courier

5. Documents and files that are delivered by hand must be placed in a sealed envelope.

6. If the material being sent contains material classified as 'Official – Sensitive', double seal the contents with an inner envelope marked for the personal attention of the recipient. Do not mark the outer envelope with any GSC marking.

7. These packages must be handed to the recipient and not left in an in-tray.

8. For further information, see [Protective marking and handling of Official information](#) ([link is external](#)).

### Facsimile (Fax)

9. An official Department for Work and Pensions Fax machine may be used for sending personal information, but only when it is not possible to send it by e-mail or impractical to use the Courier service or Royal Mail especially if an immediate response is required.

10. Documents and/or material classified as 'Official – Sensitive' must not be sent by Fax.

11. When sending a document by fax do not send bank or credit cards details and ensure that the recipient is expecting and ready to receive the document.

12. The requirement to ensure the recipient is expecting and ready to receive the Fax is not required for documents sent by Operational Intelligence Units (OIUs) to single points of contact within a secure environment of the Information Provider organisations.

13. It is important that Fax machines are turned off at close of business each day.



# National Standards Instructions (NSIM); OIU processes for Investigators and Intelligence Gathering Officers

1. The Operational Intelligence Unit (OIU) is part of the Serious and Organised Crime (SOC). It exists to provide a statutory function to enhance and progress criminal investigations through the considered application of Social Security Fraud Act 2001 (SSFA) powers
2. Intelligence Gathering Officers (IGOs), where it is necessary, proportionate and lawful to do so, obtain evidence that is used to determine whether any offence has been committed. They work to support the Counter Fraud and Compliance to achieve its national aims.
3. The [Social Security Fraud Act \(SSFA\) \(link is external\)](#) Code of Practice on Obtaining Information governs when Authorised Officer powers can be lawfully used. The allegation, facts and potential offences for each individual case determine evidential requirements. Together, these define the extent to which powers must be lawfully and reasonably utilised to progress investigations.
4. The Investigator has a critical function to play to make sure that cases merit sufficient justification to use SSFA powers. It is **essential** that investigators make sure they conduct basic preliminary planning and investigative actions before considering a Request For Information to the OIU. It is also **imperative** that they follow the processes detailed in this instruction to make sure that their application is accepted
5. Customer engagement is at the forefront of the service OIUs provide. IGOs liaise with Fraud Investigators (FIs) throughout the case and do all they can to assist them in delivering the desired outcomes
6. This instruction lays out processes which both OIUs and Fraud Investigation Teams must adhere to in order to make sure that process compliance is achieved. It also provides examples and guidance in order to achieve the successful outcome of a Request For Information

## 00 When and about whom may Authorised Officers require information?

1. Authorised Officers may require information only where they have reasonable grounds for believing that:
  - a person (identified by name or description) has committed, is committing or intends to commit a benefit offence

- a person who is a member of a family (as defined in [Part 7, Section 137 of the Social Security Contributions and Benefits Act 1992 \(link is external\)](#)) who has committed, is committing or intends to commit a benefit offence)
- a person is helping someone else to commit a benefit offence
- a person is being lied about as part of a benefit claim in respect of them or a fraudulent act against the DWP or local authority has been committed.

## 2. [Redacted]

# 01 Investigator action before Request For Information submission

1. A Request for Information must be completed in order to utilise the Social Security Fraud Act 2001 (SSFA) statutory powers.
2. The Request for Information is processed by an Intelligence Gathering Officer (IGO) based within an Operational Intelligence Unit (OIU). It must be made at an appropriate stage of the investigation cycle, after all basic planning and investigative actions have been undertaken. The Fraud Investigator (FI) must fully review the case before the Request for Information submission, to make sure only relevant information is requested.

## Preliminary work

3. Before completing a Request for Information the FI must make sure that all suspect records held on Fraud Referral and Interventions Management System (FRAIMS) are complete, check the address to make sure it is current and that the **Primary Address** box is selected.

## Suspect records

4. If details of additional suspects are not recorded on the case, for example Alleged Partner (AP), create a Suspect record. The following information must be recorded:

- forename and surname
- current address
- National Insurance number (if known)
- date Of Birth (if known).

This information is used by the IGO to generate letters if enquiries about persons other than the primary suspect are made, see [FRAIMS guidance – Creating a Suspect Record \(link is external\)](#).

## LAIEFs (Local Authority Information Exchange Forms)

A LAIEF must be obtained in advance of submitting a Request For Information (RFI) (subject to certain exceptions – see below) where there are reasonable grounds to believe that Housing Benefit/Council Tax Benefit has been in payment during the period of the offence.

This may include and be identified via:

Local Authority markers on legacy benefit systems such as Income Support Computer System (ISCS) or Job Seekers Allowance Payment System (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 fraud Referral Form (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.

Exceptions to the requirement for a LAIEF are as follows:

where there are known delays of returning a LAIEF by a local authority in excess of 28 days. **Note:** this exception does not apply to Housing Benefit only cases.

where the offence relates to Doubtful Disability and there is no impact on Housing Benefit entitlement

where the Department for Work and Pensions (DWP) has online access to the Local Authority's Housing Benefit system.

The reason for the exception must be documented in the Opening Minute of the RFI.

## **Request For Information 'Opening Minute to Operational Intelligence Unit (OIU)'**

5. Before creating the initial Request for Information request on FRAIMS, there must be a Request For Information 'Opening Minute To OIU' in a new activity line on FRAIMS, see: [FRAIMS guidance – RFI opening minute \(link is external\)](#). See also the Request for Information template and accompanying examples in [Appendix 1](#) which must be used when completing the request. This information is essential for an IGO to understand the background of a case. The Request for Information Opening Minute must include details of:

claims to benefit, including:

the current claim type, amounts and start date for **all** benefits, including Housing Benefit (HB) where applicable. Having all benefit dates available at the outset avoids the potential for multiple requests. Be specific about the periods of contribution and income related benefits. For example, Employment and Support Allowance (ESA) or Jobseeker's Allowance (JSA). You must include details relating to HB

**[Redacted]**

6. When a request is made, the IGO needs to have sight of the latest information available (additional information may have been discovered since the Case Preparation routing minute). There may also be essential information required in the RFI opening minute that may not be contained in previous minutes. If the information isn't available, the IGO would need to contact the investigator or reject the request. This is avoidable contact therefore making the process less efficient.

7. You must record details of any previous cases held on FRAIMS.
8. If you submit a 2nd Request for Information following closure of the initial one, you **must** raise a 2nd Request for Information opening minute to review any additional information that may be pertinent to the new Request for Information including a short case review.
9. Where a RFI has been rejected or refused, a new Opening Minute to the OIU is not required if the RFI is resubmitted within five working days of the decision to refuse/reject; so long as the original minute is of acceptable standard. **Or** any RFI that has been rejected or refused will not require a new OIU Opening Minute if the resubmitted RFI contains no material changes, and is within 5 working days from date of the decision to refuse or reject
10. The source of the allegation must be checked if the referral has come from a Counter Fraud and Compliance (CFCD) Interventions site due to a suspicion of an offence, it is expected that the investigator will have completed routine enquiries to make sure the individual is a prospective partner and not a relative or landlord and highlight how this has been done.
11. The investigator is responsible for making sure all relevant information is provided to the IGO.
12. All information must be contained in the **Comments** box of the activity line. You **must** not attach any documents to this line in FRAIMS. If you do, it will result in your RFI being rejected. If the text does not fit in the activity line, you **must** create a second "Opening Minute to OIU" activity line.
13. OIUs operate a national single inbox for Requests for Information. Investigators must change the field in the **Case RFI** tab to national inbox number **99990423**.

## 02 National Request for Information inbox – Intelligence Gathering Officer

### Accessing the Operational Intelligence Unit, Request For Information inbox

1. To access the Operational Intelligence Unit (OIU), Request For Information inbox, change your Fraud Referral and Interventions Management System (FRAIMS) access to **Manager, Access Activities, My Teams Activities** and then **run the Predefined Query RFI Activities – In Progress**. A list of available Requests For Information displays.

### Sample query

2. The following sample query may be used if the OIU has more than one manager or command:

insert OIU manager's staff number in top right box

move Request For Information into your inbox for processing (where allocation is not controlled by the OIU manager).

### 3. Cases are in date order

Step	Action
1.	Select the magnifying glass on the right-hand of the screen to refresh the page.
2.	Select the <b>Department for Work and Pensions (DWP) User</b> box of the first case available.
3.	Assign yourself as <b>Primary Owner</b> of the activity and remove the OIU manager. The case no longer shows as available to other Intelligence Gathering Officers (IGOs). This is essential to avoid two IGOs accessing the same case.
4.	Do not add yourself to the <b>Case Team</b> box.
5.	Change FRAIMS access back to your own position.

4. Below is a screen shot of the **Activity List** and under the DWP User Status the IGO **must** input their staff number:

New	Description	Comments	Type	Category	DWP User	Status
*	Please review the request	22/01/2014	Assign	RFI - Assign		In Progress

## 03 National Requests for Information inbox and urgent requests – Fraud Investigator

- 1 All Requests For Information are managed from a single national inbox and a national gatekeeper allocates Requests For Information to each Operational Intelligence Unit (OIU).
2. On allocation of the Request For Information, the gatekeeper inserts the date and name of the OIU in the **Comments** box, allowing you to see which OIU is dealing with your request. The **Comments** box also shows if the Request For Information is an additional Request For Information on the same case, a Generalised Matching Service (GMS) capital match or any other special area of work.

## **Urgent Request For Information**

1. If the Request For Information is urgent, the Investigator must contact the national gatekeeper on [oldham.rfiquery@dwp.gsi.gov.uk](mailto:oldham.rfiquery@dwp.gsi.gov.uk) ([link sends e-mail](#)) (40 \* **Personal data (absolute exemption in relation only to information that is the personal data of the applicant)**).
2. Requests are considered urgent if a court date has been set or an arrest of a suspect is being considered. Investigators must change the **Approver** field in the **Case RFI** tab to national Inbox number **99990423**. These Requests For Information must not be assigned to local OIUs.

## **04 Public Domain and non- Social Security Fraud Act requests – Fraud Investigator**

### **Passport data requests using Data Validation Application (formerly Omnibase)**

[Redacted].

They must also make sure that a **RIP1** authorisation is in place. These requests are now submitted directly to:

[Redacted]

[Redacted]

(GAL – DWP Glasgow NDC NIFU), on the Passport Photograph Application form ([PPA1 \(link is external\)](#)).

Call [Redacted] if you have any queries relating to this service.

If any other passport information is required, the request must be made as a Request For Information.

[Redacted]

The Intelligence Gathering Officer (IGO) must assign an activity to their local DVA single point of contact (SPOC) to request the information.

Requests for witness statements from Her Majesty's Passport Office must be made directly to them. Use a DPA form authorised by the Investigations Team Leader. These must be sent to: **[Redacted]**

### **Internet enquires**

Requests relating to Internet sites blocked by Department for Work and Pensions (DWP) filters must be submitted directly to **[Redacted]**

Further comprehensive guidance on how to access this service can be found in the [Internet Desk \(link is external\)](#) section of the Fraud Guide.

**[Redacted]**

### **Land Registry - England and Wales**

A range of Land Registry data is available via OIUs. Completion of a Request For Information is needed in order to submit an enquiry, including providing a clear link between your investigation and the request for Registry data.

#### **Land Registry – direct access**

**[Redacted]**

#### **Land Registry – official copy**

An official copy of the current register may be required for court proceedings.

#### **Land Registry – name search**

Supply a name and receive a list of properties they own (search throughout England/Wales or by region as requested). Be aware of the risk of collateral intrusion on common names.

#### **Land Registry – previous owner**

**[Redacted]**

#### **Land Registry – previous owner history**

**[Redacted]**

**[Redacted]**

### **Registers of Scotland**

Registers of Scotland (ROS) is the government department responsible for compiling and maintaining registers relating to property and other legal documents in Scotland. They maintain numerous registers, but the two most commonly used for investigations are the Land Register and the General Register of Sasines.

#### **Land Register**

This is the main register introduced in 1981 to record who owns land and property in Scotland. It is the intention that by 2025 this will be the only register in operation.

The information on this Register is public domain. OIUs have on-line access and any requests must be submitted on a Request For Information. On-line access confirms the current owner of the land and or property. If the request relates to historical information, Registers of Scotland must be approached directly by the Investigator.

## **General Register of Sasines**

Set up in 1617, the Sasine is a chronological list of Land Deeds. The Land Register is gradually replacing the Sasine.

Any property built after 1981 is recorded on the Land Register. Any property which changed hands for a monetary value (not love favour and affection) after 1981 is now on the Land Register.

From 1 April 2016 any property which is re-mortgaged (but not by the same lender) is now recorded on the Land Register.

The information on this register is public domain, however it is agreed that IGOs have on-line access and any requests must be made on a Request For Information. Historical data can be obtained from the Sasine Register as the details held are scanned copies of the old clerical hand written or typed records.

Office copies, witnessed and or certified, must be requested directly by the Investigator.

## **Companies House**

The Operational Intelligence Units (OIU) can obtain a variety of information from Companies House to support investigations. The data is public domain information and as for Land Registry records, it is not necessary to provide the same detailed justification as you would with Social Security Fraud Act (SSFA).

Companies House information includes:

- company reports
- directors reports
- annual returns
- company accounts
- new appointments
- copies of document images.

Information is currently available via a Beta service at no cost

**[Redacted]**.

## **Television Licensing**

Television (TV) Licensing do not hold historical data and only confirm details of accounts relating to names and addresses supplied.

Provide the following information:

- confirmation that account is held in name at address supplied
- period licence held for
- method of payment.

## **Security Industry Authority (SIA)**

**[Redacted]**

**[Redacted]**

Details provided include:



[Redacted]

## Her Majesty's Revenue and Customs

Investigators requesting Her Majesty's Revenue and Customs (HMRC) data **must** complete a normal Request For Information. [Redacted] are made by IGOs on [Redacted]

Note that the process of requesting HMRC data has changed since the closure of the [Redacted] OIU. The NCU1 should be completed in full by the IGO and emailed to [Redacted]. All requests will be actioned under Section 122 of the Social Security Administration Act 1992.

## Requests For Information about third parties

[Redacted]

[Redacted]

Fully state exactly what evidence you hold and the dates of that evidence when requesting information about third parties.

**Note:** All non-SSFA requests, other than Data Validation Application (DVA) and Internet desk enquiries may be submitted on a stand-alone Request For Information or as a joint request for SSFA and non-SSFA data.

# 06 Request for information completion – Fraud Investigator

Request For Information template and examples are in [Appendix 1](#).

This is the most important part of filling in the Request For Information request.

Within the **RFI** tab, it is essential that all three comments boxes contain the following information. Failure to include these details may result in your Request For Information being refused or rejected.

## Explanation

The Fraud Investigator must enter the following details:

- what information is required

- where relevant, what period the information is required for

- where relevant, account numbers or references, that is bank account number and sort code

- explain what less intrusive means have been used to progress the investigation

- provide any additional information which supports the application.

The Explanation must also include what other action has been taken to get the information or reasons why it cannot be obtained by any other means. It is critical that the Investigator explains why they have not or do not intend to approach the claimant for the required information. It is the investigator's responsibility to determine if approaching the claimant will have a detrimental effect on the investigation:

## **Reason**

Investigators must provide full reasons why their requests are necessary and proportionate.

Reasons must include:

- why is your request necessary
- why do you want the information
- why is your request proportionate
- does the information requested fit the alleged crime
- if you are requesting periods of information, why have those specific periods been requested
- what will you do with the information if it is obtained.

The **Code of Practice (CoP)** states:

Authorised Officers can only request the information when there are reasonable grounds for believing that the person to whom it relates committed, is committing or intends to commit a benefit offence. Grounds for requiring information may vary depending on the circumstances of the case and each case must be considered on its own merits.

The Authorised Officer must consider each time if the use of the powers is justified and when deciding whether a Request For Information should be made Authorised Officers should consider if:

- there is a question that needs an answer for any of the purposes set out in section 109A(2) of the Administration Act
- the information sought is necessary for any of those purposes
- the use of the powers is a proportionate way of obtaining the information deemed necessary for the purpose, and
- whether the use of the powers is the most appropriate way of obtaining the information, compared to any other method that may be less intrusive but equally effective. This may include obtaining the information from the claimant, but not when to do so would jeopardise the investigation.

he basic rule is that there must be an objective basis for that belief that is based on facts, information, and/or intelligence which are relevant to the likelihood of obtaining information for any of the purposes set out in section 109A(2) of the Administration Act. Reasonable grounds cannot be supported on the basis of personal factors or a "hunch".

Authorised Officers must consider all the facts of the case known to them at that time when deciding what is reasonable. They must ensure that each decision made

relating to the use of the powers is documented and available for checking by management or validators.

Management checks will ensure that these procedures are followed correctly.

## **Risks**

must address the risk of **collateral intrusion**, namely obtaining information about any individuals who may not be the subject of your investigation. You must provide the following information:

- what is the risk of collateral intrusion

- if there is a risk, why is it justified

- what will you do with any collateral information that is returned.

## **Finally**

If there is insufficient space in any of the above comments boxes, the Fraud Investigator must create a new activity with the description **RFI Continuation**. Reference to this must be made in the Request For Information. You must not just put **see attachment** in the comments boxes.

It is important to note that investigators must not request a full Credit Report from the Operational Intelligence Unit (OIU) if it has already been obtained by the Referral, Enhancement and Routing team as this can be retrieved via the PSG portal; they may of course ask for information relating to accounts detailed in that report.

See: [Appendix 4](#) for a list of SSFA data sources.

# **07 Authorisation - Intelligence Gathering Officers**

## **Review or Review Continued fields**

1. The **Review** or **Review Continued** fields are used to record a brief overview of the case and the Request For Information. They must include:

- details of benefit

- nature of the allegations

- details of other suspects

- information on what has been requested by the Investigator.

## **Decision OR Decision Continued fields**

2. This is the most important box for the Intelligence Gathering Officer (IGO) to complete. It must include:

- thought process as to why the Request For Information is reasonable, necessary and proportionate

reasons why information is or is not being obtained [Points to Prove \(link is external\)](#) may be referred to for guidance on data gathering to consider for each offence

references to any information gathering that may be considered at a later date  
the period of each request and an explanation to justify the period - proportionality

the legislation being used to make enquiries. It is sufficient to quote legislation as **Social Security Administration Act 1992 s109B**

the name of each Information Provider to be contacted and the account numbers.

3. The IGOs decision must be logical and cover each element of the information requested. Any decision to put off obtaining information must be noted, that this may be considered at a later date depending on other information obtained.

4. If necessary the IGO must reference the [SSFA Code of Practice \(link is external\)](#) to make sure the lawful application of SSFA powers. The powers must only be used against a person identified by name or description suspected of committing a benefit offence or a suspected family member, see: [Third Party Information](#). Any further suspects (for example the Alleged Partner) must be named in the Request For Information with an explanation of their role in the fraud.

5. Suspects are defined on two levels: 1) for FRAIMS purposes, and 2) in the **Code of Practice** sections 2.8 to 2.10.

6. Example wording to include in an IGOs Review and Decision can be found in [Appendix 2](#).

### **Once the decision has been made to authorise a Request for Information, the IGO must:**

change the Approver to their staff number and change the status to Proceed with Request

accept the **Request For Information in Activities** by changing the resolution to **Accepted-RFI in Progress** and Status to **Done**.

7. The IGO must then add the OIU Manager to the **Case Team** box to enable Investigators and Managers to identify where a case is being actioned.

8. IGOs must record any subsequent authorisation that is made after initial enquiries have been completed as a follow-on request.

### **Third Party information**

9. Information must not be obtained on third party accounts unless:

the person is party to the benefit offence. For example a landlord and a customer contriving a tenancy in order to claim Housing Benefit or where a member of the family is helping with the fraud

they are a suspected family member as defined in Part 7 section 7 of the Social Security Contributions and Benefits Act 1992. A family is defined as:

any married or unmarried couple who are members of the same household

any married or unmarried couple who are member of the same household and any children or dependants which either member is responsible for and which live in the same household

a single person and any child or dependant which the person is responsible for and lives in the same household.

10. The [SSFA Code of Practice \(link is external\)](#) (para 2.9) must be referred to when considering these requests. It may also be necessary to consult with your OIU Manager to make sure that a consistent approach is taken.

## **Living Together allegations**

11. IGOs must focus their intelligence gathering **[Redacted]** 12. Information on the claimant may be required at a later date if the IGO feels it is necessary and proportionate to do so. IGOs must fully justify their reasoning in the Request For Information and provide an explanation as to what this brings to the investigation. The instructions provided in the [Points to Prove \(link is external\)](#) advises “[Redacted]”.

## **Living Together - obtaining information not held at the claim address**

13. **[Redacted]**

## **GMS Capital Cases**

14. **[Redacted]**

15. **[Redacted]**

16. **[Redacted]**

17. **[Redacted]**

18. If an IGO finds current evidence of capital above the applicable benefits threshold on GMS or any other cases, they must **immediately** notify the investigator so that they can consider suspension of benefits, where applicable. Payments received from Government funded Trusts and Funds do not have to be declared and may be disregarded for benefit purposes.

19. **[Redacted]**

20. **[Redacted]**

21. If the Investigator confirms a sanction is planned, they may submit a further request to obtain statements from the declared account. This may be necessary to establish the full extent of the fraud.

**Note:** Any guidance relating to GMS in these instructions must be used in conjunction with local business guidance and [instructions issued by BMS \(link is external\)](#) (formally SOCC).

## **Including details of bank accounts and or credit or debit cards to Information Providers**

22. There are instances where it may be necessary to use bank statements to identify individuals that other parties are financially linked to.

23. **[Redacted]**

24. **[Redacted]**

## Corroborations and Scottish law

25. [Redacted]

## 08 Request For Information - Rejections and Refusals (All)

### Rejection

1. Rejections are technical reasons why an Intelligence Gathering Officer (IGO) can't progress a Request For Information. It is important to note that if the Request For Information is completed correctly, it will reduce processing times and prevent rejection.

2. Examples of rejections are:

RFI boxes are blank

information is missing which is needed for the IGO to make a decision. For example, necessity and proportionality omitted

on income based benefits, the split between contributions and income related benefits is not detailed

no RFI Opening Minute to OIU

LAIEF not obtained (except on Doubtful Disability cases, if there are known delays in excess of 28 days or where a team has online access to LA's Housing Benefit systems).

**3. Note:** Efforts will be made to minimise minor rejections by asking the Fraud Investigator (FI) to add missing information in an activity line on FRAIMS. The IGO will contact the FI to advise what information is missing.

4. There is an expectation that a Request For Information should remain open for a minimum of 48 hours pending additional information. However, this is not prescriptive and a longer time frame may be acceptable due to staff availability, or with agreement of both parties. This must be recorded on FRAIMS as an activity line to explain what action is awaited.

5. An IGO's leave or working pattern should not be used as a reason to close a Request For Information.

6. Management will take the lead in looking at rejections and refusals to make sure a level of national consistency exists. Management will also feedback trends and offer support to regional groupings with a view to creating a better understanding of what is required to complete a successful Request For Information.

7. If a Request For Information is to be rejected, full reasons must be detailed in the Request For Information and also in an Activity to the investigator.

## Refusal

8. Refusals are procedural or policy reasons why a Request For Information can't be progressed.

9. Examples of refusals are:

the investigator has failed to document why they do not wish to approach the customer or suspect for the required information

the information requested does not comply with SSFA policy and the Codes of Practice

the investigator must obtain the information rather than the IGO. For example, proof of employment

### [Redacted]

the information requested is deemed intrusive and the investigator has not considered utilising less intrusive data sources prior to submitting the Request For Information

the information has already been received. For example, an EQ1 has proven evidence of salary, therefore it is inappropriate to request bank statements.

10. The Request For Information and refusal activity must clearly explain to the investigator the reason for the refusal. Investigators will be notified of any Requests For Information which are not accepted.

**IGOs must make all reasonable attempts to call the investigator to outline the reasons for a rejection or refusal and offer relevant support and guidance to minimise issues with future RFI's. If the investigator is not contactable by phone, an email to them will suffice as a last resort providing reasons are fully documented. IGO's must make sure that contact is recorded in the Refusal/Rejection RFI activity line.**

## Created in error

11. Requests For Information are classed as "created in error" when:

the investigator wished to withdraw the Request For Information before completion

the investigator has created two Requests For Information by mistake.

12. A Request For Information created in error should not be counted as a Request For Information for IGO statistical purposes.

## IGO process for refusal/rejection/created in error

Step	Action
1.	Complete the reason for refusal or rejection in the <b>Case RFI Decision box</b> .
2.	Select the correct <b>Reason for Closure</b> from the dropdown box
3.	Change the <b>Approver</b> to your staff number and change the <b>Status</b> to <b>Reject/Refuse Request</b> .

4.	Move to the main <b>Activities</b> screen and make sure your staff number is in the “ <b>Please review RFI</b> ” activity before changing the <b>Resolution</b> to “ <b>Refused/Rejected/Created in Error</b> ” and the <b>Status</b> to “ <b>Done</b> ”.
5.	<p>A new activity line should be created to allow the capture of statistical information relating to <b>Refusal/Rejection/Created in Error</b> incidents, This must be noted as follows:</p> <p><b>Description</b> = RFI Refused/Rejected/Created in Error</p> <p><b>Comments</b> = RFI Refused/Rejected/Created in Error</p> <p><b>Type</b> = Assign</p> <p><b>Sub Category</b> = OIU action complete</p> <p><b>Category</b> = RFI-Assign</p> <p><b>Resolution</b> = Rejected/Refused/Created in Error</p> <p><b>Status</b> = Done</p> <p><b>It is vital for the correct capture of statistics that this Activity line is created.</b></p>

## 09 Activities Process – Intelligence Gathering Officers

1. activities must be completed as follows:

**Description** of the provider followed by the legislation used from the Tagging Document contained within [Appendix 3](#)

**Comments** must include the date the request was sent, how the request was issued (email, PGP or post) and a description of what has been requested; This must include name, account numbers, sort codes, the period of the request and any other relevant information requested. For example, address history. The Intelligence Gathering Officer (IGO) must include their initials at the end of the Activity.

Example:

More Info	Activities	Attachments	Groups	Incidents	Notes	Related Cases	Suspects	Case RFI	Case Referral	Case
Menu	New	Delete	Query							
Description	Comments	Type	Category	Resolution	Status					
Lloyds TSB SSFA 2001 section 109B(2A)a	27/01/2014. PGP. Statements from Suspects Lloyds Account (Sort Code) (Account Number) for the period 27/01/2013 to 27/01/2014 A.J.	Document	RFI - Document	Sent	In Progress					



2. The suspect field must be amended as appropriate. For example, Claimant or AP and their due date for the reply set for up to 28 calendar days..

## 10 Correspondence – Intelligence Gathering Officers

1. To comply with the Social Security Fraud Act (SSFA) 2001 Code of Practice, information providers are required to provide information requested within ten working days unless agreed otherwise. Where the information provider is unable to deliver the required information within ten working days, they must contact the IGO to negotiate a mutually acceptable timescale. See [SSFA 2001 Code of Practice \(4.6 – 4.10\) \(link is external\)](#) for further details. In exceptional cases, an information provider may be asked to provide information more urgently.

2. A due date for a return of ten working days must be detailed in the letter to the information provider, with a brought forward (BF) date set in FRAIMS **to a maximum** of 28 calendar days from the date of the initial request. Consideration should always be given to information provider workloads and resources allied to the complexity of data requests being made. The setting of BF dates will be regularly reviewed to take into account factors such as delays caused by MOSAIC, heads of work and data matching exercises. CC Intelligence will take all necessary steps to minimise the time taken to process RFIs and have on-going dialogue with information providers and DWP Policy in order to reduce response times in line with the Codes of Practice.

3. The recording of clear, easy to understand and accurate information is one of the most important part of the intelligence gathering process.

4. To enable the Intelligence Gathering Officer (IGO) to progress the case in the most efficient way, letters must:

- make sense to the recipient

- include the Information Provider's reference number(s) if known

- contain specific Requests For Information. Links must exist to enable and justify the request and not be used for the purposes of fishing exercises

- be saved in FRAIMS and assigned to the correct suspect

- have a corresponding activity with appropriate tagging where relevant. The comments box must reflect what has been requested. IGOs should also consider contacting the relevant bank SPOC if it appears that national delays are likely.

**5. Note:** There is no restriction concerning the length of time information may be requested.

6. After a request has been merged on FRAIMS, the Sent column must be marked **Sent** or **Not Sent**. It must not be left blank. Remember to select the correct suspect. For example, claimant or AP. If an IG5 fax is generated via FRAIMS, this **must not** be marked as **Sent**.

## 11 Reminder Action – Intelligence Gathering Officer

1. Where a response is not forthcoming within the brought forward (BF) deadline, action must be taken on or before the date the BF falls.

### Actioning BF dates

2. The IGO must record all actions, reviews and replies on one activity line. This allows the Investigator and Manager to understand what actions have been taken and to identify areas of delay and concern. This also aids time-barred cases, where chronologies are required.

3. If a reply is not received before the BF expires, an **IG84** reminder letter must be issued:

- close the original activity and mark it No response received – further action required

- update the status to done

- create a new activity with the BF date set for up to 21 calendar days

- copy and paste the original information into the comments box for the next IGO to action the case to follow

- issue an IG84 reminder letter with a ten working day due date

4. Do not incorporate tagging in the new activity. The **Description** must be marked Reminder to (Information Provider) and the **Comments** box must be noted with the re-requested details.

5. If appropriate, the IGO can telephone the information provider in the first instance, or extend the due date because of known delays. Record this in the original request and include your initials, date and details of any contact made.

## 12 Replies Received – Intelligence Gathering Officer

1. Review the Request For Information before actioning replies. This makes sure any decisions that have been previously deferred can be revisited.

2. The ability to assess a case and understand what has happened, why, and what actions are underway or awaited are essential requirements to make sure that an equitable and good standard of service is provided to CFCD Local Service Teams.

3. To achieve this standard, IGOs must:

- consider and document their thoughts, having regard to the impact of any action on the case progression

- record all salient points contained within a reply

- consider what the next step must be. Does the reply identify a new or follow up enquiry

- not note the **Comments** box Reply Received with no analysis or detail. This is not acceptable.

## Definition of replies

4. In the Comments box of the activity, IGOs must record the date the reply is actioned, followed by the date the reply was received at Operational Intelligence Unit (OIU) and the provider's reference number (where known). A full summary of information received must then be completed, followed by the IGO's initials.

5. Replies are defined as a reply to a request made under the **Social Security Fraud Act, WRA, Her Majesty's Revenue and Customs (HMRC)** or **Data Protection Act** received via the following channels:

- MOSAIC

- post/TNT

- fax

- PGP/EE/O2 etc. – email reply.

6. The following are not to be classed as a reply:

- on-line checks – including Credit Reference Agency, Passport and Child Benefit on-line (CBOL)

- queries or requests from Fraud Local Service, including any further checks requested.

7. On-line checks may result in subsequent follow on checks being made, which are classed as replies when received from the provider and so effectively counting this action.

8. If an on-line check results in follow on checks, these are counted as a reply as they are received from the provider.

## Recording replies

9. The correct recording of this information is an essential part of the national inbox process. It enables IGOs to progress the case in the most efficient way. IGOs must record the following information as a minimum:

- full account number and name of each account

- dates accounts opened and or closed

- address history

- a review of each account, recording relevant points

information that has not, or cannot, be supplied by the provider

information to aid the Investigator with their enquiries. For example, vehicle registration numbers, wages from possible employers, Data Protection Act (DPA) 2018 enquiries or capital exceeding the permitted statutory limit

details of any Direct Debits, Standing Orders or similar, highlighting any transactions of note

for General Matching Service (GMS) capital cases, list only the main accounts, providing an opening balance, closing balance and highlighting any relevant transactions.

10. Make sure the information on each activity is recorded in chronological order.

11. The first line of the **Comments** box must always show what has been requested, followed by subsequent replies. All replies must be entered on the initial activity. A new continuation activity can be created if additional space for comments is required.

12. The Comments box must clearly show the name of the information provider for any new activity and must also refer to the date of the original activity.

### **Additional information screen**

Additional information must be used where sites are operating **Big Box**.

13. Enter a brief summary of the activity in the RFI **Additional Information** boxes (in chronological order) to provide a clear intelligence gathering history for IGOs or Investigators to follow. Include the following information:

the information obtained

the reasons why any transactions or lines of enquiry are not being pursued (this avoids the need for second RFIs to be submitted).

14. Refer to the **Follow-on Request** screen **Request For Information – Additional Info** if any transactions must be queried.

**Example:**

01/05/2014 NatWest Reply  
Statements provided for 6 accounts for period 01/04/11 to 01/04/14  
Combined balance held at DOC (01/04/13) £20,000, balance held 01/04/14 £9,000.  
Cash withdrawals. Debits made, destination unknown.  
Refer to "Follow on Requests" for details of the debits to be queried. AB

**Request For Information – Additional Info**

Menu Query RFI – Additional Info

**Additional Info**

Additional Info: 01/05/2014. Natwest Reply

## Follow-on request screen

15. To make further requests, complete the **Request For Information Follow On Request** screen. Corresponding activity lines are also created in Fraud Referral and Intervention Management System (FRAIMS) for requests to each Information Provider.

## Partial replies

16. If a reply indicates further information is to follow, for example archived statements or copy cheques, complete a description of what has been received to date in the **Comments** box and extend the brought forward (BF) date for up to 28 calendar days.

To prevent delay, a mutually acceptable timescale for information to be provided not to exceed 28 calendar days must be agreed:

- if transactions in a partial reply indicate a need for follow-on checks to the provider, pursue any obvious follow-on requests, for example Direct Debits, Standing Orders

- avoid multiple requests to the provider while waiting for a full reply, set the due date on the letter for ten working days to make sure the follow-on check or outstanding reply is not missed

- in capital cases, IGOs must consider waiting for all outstanding replies for cross referencing before undertaking further requests for source details.

## Pretty Good Privacy replies

17. When a Pretty Good Privacy (PGP) reply is received:

- check the secure email has a blue banner in the body of the email. The blue banner is a visual indication that the secure email has successfully passed through the encryption or decryption process. If you are not sure, and do not see a blue banner, raise this with your line manager for escalation and checking

print the Information Provider's cover sheet, which includes the FRAIMS reference number. Link to the file and place with other outstanding post

when the reply has been analysed and FRAIMS updated, forward the email to the Investigator who made the Request For Information. As the email has already been through the decryption process, you do not need secure email access to open the reply.

### **Document Repository System (MOSAIC) replies**

18. When a reply is received via Document Repository System (DRS):

an activity line with the description 'MOSAIC' is created by the Mail Opening Unit in the staff ID of the IGO

once the IGO has processed the reply in the usual way, they must change the status of the MOSAIC activity line to 'Done'.

### **Other electronic replies**

19. Information Providers must not reply by email unless they are using secure email, but any replies received in this format must be accepted.

20. The IGO must put in place a process to make sure their emails can be read when they are absent from work. They must apply the relevant Outlook rule which redirects the required emails to the appropriate OIU mailbox.

### **Sending replies to Investigators**

21. Now that MOSAIC has been fully implemented, IGOs no longer build a case file and return it via courier to the Investigator at the conclusion of the RFI.

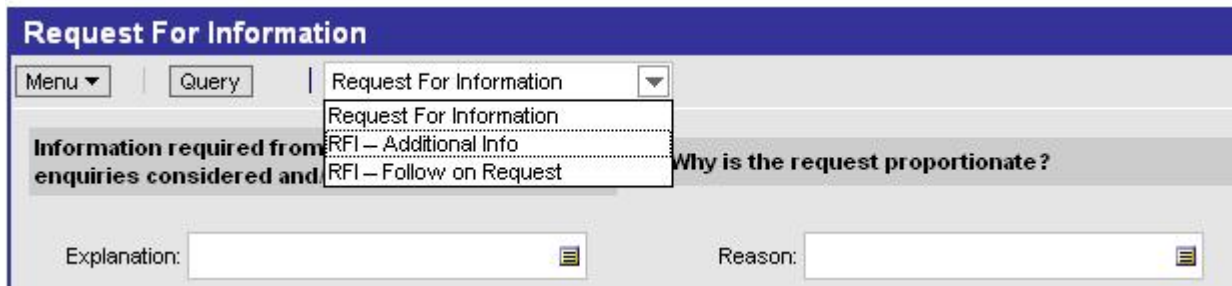
22. If physical post is received, it must either be scanned and emailed to the investigator, uploaded directly by the IGO into DRS or posted to the Mail Opening Unit for scanning.

23. Investigators must not mark activities assigned to IGO staff numbers as 'Done', nor must they contact the OIU before IGOs process results from MOSAIC.

## **13 Analysis – Intelligence Gathering Officers**

1. You must provide a full analysis of information received for each reply. Record a brief summary, including all relevant points, in the **Request For Information, Additional Information** screen. This is accessed via the drop down list in the Case RFI. Include any information that may help the Investigator with their enquiries. For example, vehicle registration numbers, wages from possible employers, any DPA enquiries.

2. If, following analysis of replies, you decide not to undertake follow on checks, use the drop down list in the Follow on Request screen on the Case RFI to record the reasons why.



3. A summary of each reply is recorded in chronological order to provide the Investigator with a clear intelligence gathering history. [Appendix 2](#) provides an example of the information contained in these boxes.

4. Due to limited inbox capacity and storage space PGP/electronic replies will be forwarded to the Investigator once actioned.

## 14 Follow-on requests from information found - Information Gathering Officer

1. If follow-on checks are required, record the decision on FRAIMS in the Follow-on Request section of the RFI tab. Include the relevant legislation and reasons why the request is reasonable, necessary and proportionate, along with the Information Provider's name, account number(s) and the period(s) requested.

### Examples:

[Redacted]

[Redacted]

2. A new, fully tagged activity must then be completed.

### Additional information required by a Fraud Investigator on an open Request For Information

3. If an Investigator identifies further information they require whilst the Request For Information is open, they must assign a new activity to the manager of the relevant OIU.

4. These activities can be accessed by running a Pre-Defined Query (PDQ). The IGOs will record the decision in the Follow on Request Screen of the Request For Information.

## 15 Further Requests For Information - Fraud Investigator

1. If an Investigator identifies that they require further information whilst the Request For Information is open, they must assign a new activity to the Manager of the relevant OIU. Record the Type as "Review" and Category as RFI Review with a full description of what is required, and why, in the **Comments** box. In sites where IGOs case manage their own RFIs, assign your activity line to the IGO.
2. The FI provides any documentation needed by the IGO to conduct these checks. Copies should be scanned and attached to FRAIMS with the location highlighted.

<a href="#">More Info</a>   <a href="#">Activities</a>   <a href="#">Attachments</a>   <a href="#">Groups</a>   <a href="#">Incidents</a>   <a href="#">Notes</a>   <a href="#">Related Cases</a>   <a href="#">Suspects</a>   <a href="#">Case RFI</a>   <a href="#">Case Referral</a>						
Menu ▾   <a href="#">New</a>   <a href="#">Delete</a>   <a href="#">Query</a>						
Description	Comments	Type	Category	Resolution	DWP User	Status
Further Intelligence required	Please consider obtaining ....	Review	RFI - Review	Intel Gather to continue		In Progress

Insert OIU manager's Staff Number

## 16 Closing the Request For Information (IGO)

### Request For Information Summary of Information

1. Once all information gathering is complete, record a case overview in the **Info Received Review** comments boxes in the RFI tab. Include enough information to show if the evidence obtained supports the allegation. It is not enough to state "All replies received, see activities".
2. All individual information replies will have been recorded in the relevant Activities 'Comments Box'. It may be useful for IGOs to complete an additional summary of each reply in the Additional Information field. The Info Review Box should contain:
  - details of the allegation
  - brief summary of replies received (include all information providers)
  - whether information supports/does not support/partially supports the allegation
  - initials of the IGO.

### Example of Information Received comments



[Redacted]

## IGO process for closing the Request For Information

3. To close the Request For Information, go to the yellow bar at the top of the RFI tab:

update **Status** to Response Received

select the **Reason for Closure** from the drop down list. The reasons are as follows:

accepted, info obtained – all relevant information has been obtained and accepted

accepted, info not obtained – the IGO has accepted the Request For Information but the Information Provider has replied with a no information found response.

update **Status** to Closed.

### Case RFI – Reason for closure field

The screenshot shows a software interface with a top navigation bar containing tabs: More Info, Activities, Attachments, Groups, Incidents, Notes, Related Cases, Suspects, Case RFI, Case Referral, Case Surveillance, and Under/Overpayment D. Below the navigation bar is a menu bar with 'Menu', 'New', and 'Query'. The main area displays a table with columns: RFI Reference, Reason For Closure, Approver, Status, Date Created, Suspect, and Description. A row is highlighted with a yellow background, showing RFI Reference '1-13651', Status 'Response Received', and Date Created '19/02/2016 10:41:57 AM'. A dropdown menu is open for the 'Reason For Closure' field, showing options: 'Accepted, Info Obtained', 'Accepted, Info not Obtained', 'Rejected', and 'Refused'.

#

4. You must then create a new activity line to close down the RFI.

The screenshot shows the 'Activities' tab selected in the top navigation bar. The menu bar includes 'Menu', 'New', 'Delete', and 'Query'. The main table has columns: Description, Comments, Type, Category, Resolution, Sub-Category, and Status. A row is highlighted with a yellow background, showing Description 'OIU (RFI) action complete', Comments 'Intel Gathering established.....', Type 'Assign', Category 'RFI - Assign', Resolution 'Sufficient Evidence Prvd', Sub-Category 'OIU Action Complete', and Status 'Done'.

enter OIU (RFI) action complete in the **Description** box

cut and paste the contents of the Info Received Review box in the Comments box

select Assign in the **Type** box

select RFI – Assign in the **Category** box

select No Information Found or Sufficient Evidence Prvd in the **Resolution** box

select OIU Action Complete in the **Sub-Category** box

select Done in the **Status** box.

IGO's will have had on-going dialogue with FI's during the course of processing a RFI. However, serious consideration must be given to contacting them prior to case closure; to make sure that all suitable avenues have been explored and sufficient evidence obtained to progress the investigation.

5. If necessary, contact the FI before closing the RFI. This makes sure all avenues have been explored and there is enough evidence obtained to progress the investigation.

6. The IGO must remain as the primary owner. Close the activity to allow accurate capture of statistics. The OIU Manager must be removed from the Team box.

## **Notifying the Investigator**

7. An activity line must be created on case closure in order to advise the Investigator that the RFI has been completed:

Description = FAO (insert name of Investigator)

Comments = RFI Closed - see activity/RFI Rejected/RFI Refused

Type = Assign

Category = Colleague

Resolution = Sent

Status = Assigned

## **17 Issues**

### **Fraud Investigator issues**

1. If an Investigator is dissatisfied with how a Request For Information has been processed, they should follow the [Peer Review Process](#).

2. If a solution cannot be found via discussion between Investigator and IGO, it can be escalated to the OIU Manager to discuss with the Local Service Team Leader. The Investigator must complete a National Standards Issue form [NSI1 \(link is external\)](#) and forward it to their Team Leader for onward transmission to **[Redacted]**. The Peer Review Process then continues via the Customer Account Manager (CAM) group.

### **Intelligence Gathering Officer issues**

3. If an IGO is not satisfied that an investigator or another OIU has followed national instructions, they must discuss the issue with their manager. If the issue is still not resolved, they should then complete the IGO National Standards Issue form [NSI2 \(link is external\)](#) and forward it to their manager for onward transmission to **[Redacted]**

## **Appendix 1- Request For Information actions and examples - Fraud Investigator**

The following templates should be used as a basis for completing your RFI. It is essential that you cover all the points detailed in the questions below in order that an IGO can immediately progress your RFI, avoid any delays or further communications: Request For Information Template

[Request For Information Template \(link is external\)](#)

## **Request For Information Examples**

**Disclaimer – the RFI examples should be used for guidance only and not as tools to cut and paste responses. Each RFI should have specific responses relevant to the case in question.**

### **Doubtful Disability**

**Scenario:**

[Redacted]

### **Living together**

**Scenario:**

[Redacted]

### **Non-commercial Tenancy (HB)**

**Scenario:**

[Redacted]

### **Non residency**

**Scenario:**

[Redacted]

## **Appendix 2 – Example text for Intelligence Gathering Officer decision making**

**Disclaimer – the Request For Information (RFI) examples should be used for guidance only and not as tools to cut and paste responses. Each RFI should have specific responses relevant to the case in question.**

1. [Redacted]

2. [Redacted]

3. [Redacted]

4. [Redacted]

5. [Redacted]

6. [Redacted]

7.[Redacted]

## **Appendix 3 – Legislation and Tagging for OIUs**

### **1. Bank legislation/Tagging**

Bank Legislation / Tagging

Barclays SSFA 2001 section 109B(2A)a

Co-operative Bank SSFA section 109B(2A)a

HBOS SSFA 2001 section 109B(2A)a

HSBC SSFA 2001 section 109B(2A)a.

### **2. Legislation/Tagging**

SSFA 2001 section 109B(2A)a - Banks other than those specified above

SSFA 2001 section 109B(2A)b - Building Societies, other financial institutions that are not banks

SSFA 2001 section 109B(2A)c - Insurers

SSFA 2001 section 109B(2A)d - Credit Reference Agencies

SSFA 2001 section 109B(2A)e - Any agency whose principal purpose is to provide information for preventing or detecting fraud, for example CIFAS

SSFA 2001 section 109B(2A)f - Money transmission companies, for example PayPal

SSFA 2001 section 109B(2A)g - Water

SSFA 2001 section 109B(2A)h - Gas

SSFA 2001 section 109B(2A)i - Electricity

SSFA 2001 section 109B(2A)j - Telecommunications

SSFA 2001 section 109B(2A)k - Education

SSFA 2001 section 109B(2A)l - Admissions to educational establishments, for example UCAS

SSFA 2001 section 109B(2A)m - Student Loans Company

SSFA 2001 section 109B(2A)n - Any servant or agent of any of the above

DPA 1998 section 29(3) - Information Providers not covered under SSFA or SSAA and not within the Public Domain

DPA 1998 section 29(3) – IM Investment Fund Managers

DPA 1998 section 34 - Public Domain (for example Courts)

SSAA 1992 section 122b - IPS (DVA), Immigration or Prisoners

SSAA 1992 section 122d - Local Authorities

WRA 2012 section 127 – HMRC

## Appendix 4 – SSFA Sources of Information

### 1. You can obtain information from:

any bank. This includes:

banks

credit unions

friendly societies

industrial and provident societies

Director of National Savings

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

any insurance company

any credit referencing agency

any body whose principal activity is to facilitate the exchange of information for the purpose of preventing or detecting fraud. For example, the United Kingdom fraud avoidance system (CIFAS).

any person carrying out a business of which the whole or a significant part consists in the provision to members of the public of a service for transferring money from place to place. For example, money transmission companies

any water or sewer authority

any gas or electricity supplier or distributor. This includes meter point companies

any person who provides a telecommunications service. This includes the Royal Mail

any person conducting any educational establishment or institution. This includes schools and universities but be aware of the sensitivity of data relating to minors

any body the principal activity of which is to provide services in connection with admissions to educational establishments or institutions. This includes UCAS

The Student Loans Company.

### 2. The following information cannot be obtained under SSFA:

[Redacted]

- [Redacted]

## Appendix 5 - Peer Review Process

### Fraud Investigator not satisfied with decision or action taken by IGO

Step	Action
1.	The FI must contact the IGO who made the decision or took the action, to discuss the issue.
2.	If the issue is resolved, continue case action. A new Request For Information may need to be submitted.
3.	If the issue is not resolved the FI must inform their team leader (HEO) who will discuss the issue with the OIU manager and record the discussion in FRAIMS.
4.	The FI must send a completed Escalation Template <a href="#">NSI1 (link is external)</a> to their team leader (HEO).
5.	If the team leader agrees with the issue they will send the escalation template to: <b>[Redacted]</b>
6.	<p>Receipt of the Escalation Template is made on FRAIMS, database noted and reference to the Customer Account manager Group. A holding response email is then sent to the team leader (HEO).</p> <p>FRAIMS should be updated as follows:</p> <p><b>Description</b> – CAM Review</p> <p><b>Comments</b> – Leave blank until decision of CAM group available</p> <p><b>Type</b> – Review</p> <p><b>Category</b> – Case Review</p> <p><b>Resolution</b> – Recorded</p> <p><b>Status</b> – In Progress. When decision made, change to Done.</p>
7.	OIU managers, incorporating CAM Group will review the issue and agree actions.
8.	<p>The OIU manager will confirm the outcome to the IGO who made the original decision. They will discuss the outcome and rationale behind any decision from the review and if appropriate ask the IGO to reconsider based on additional evidence.</p> <p><b>Information requested</b> – update FRAIMS with outcome.</p>
9.	<p>The OIU manager will instigate a peer review to consider the Request for Information and adopt a single consistent, common approach to processing Requests for Information within the OIUs.</p> <p>FRAIMS updated with outcome and email sent to team leader /FI for</p>

	confirmation.
1 0.	The OIU manager will contact the team leader (HEO) by phone to advise of review/reconsideration outcome and provide confirmation by email.

# Official Notebooks

## 00 Introduction

### Minimum Requirements

1. In England and Wales the Criminal Procedure and Investigations Act (CPIA) 1996, Code of Practice, requires that relevant information obtained during the course of an investigation, including information which is negative, must be recorded at the time it is obtained or as soon as practicable afterwards.

2. The Welsh Language Act allows for notes conducted during investigations within Wales to be written in Welsh.

3. In Scotland in order to satisfy the requirements of the Test of Fairness, these principles must also be followed.

4. The investigator in charge of the investigation must ensure the information is recorded in a:

- durable and retrievable form and
- full and factual manner.

5. The use of a official notebook is mandatory for all investigators. It is recognised that exhibit books/logs are used during official searches, but official notebooks can be used for gathering and recording pieces of evidence.

6. Official notebooks can also be used to support continuity of evidence, by providing an audit trail regarding the transfer of evidence/productions from one officer to another.

7. It is essential that the Department is able to withstand any challenge made under The European Convention on Human Rights (ECHR) that the rights of a claimant under investigation have been breached. The main areas of concern for the fraud community are likely to be:

- Article 6: the right to a fair trial and
- Article 8: the right to respect for private and family life.

The list is not exhaustive.

8. The Code of Practice on Surveillance covers some of the main areas of concern surrounding Article 8. Used correctly the official notebook ensures that investigative duties are carried out correctly and professionally. It acts as an additional safeguard should a challenge arise as a result of an investigation.
9. The use of the official notebook nationally ensures that the procedures followed for recording information obtained by investigators are standardised and that the information is recorded in a durable and secure form.
10. It enables investigators to provide witness statements and give evidence in court based upon material that has been recorded in the official notebook.

## 01 Management of Official Notebooks

### Maintenance

1. The official notebook contains sequentially numbered pages with a left-hand margin ruled on each page. Pages must not be removed or left blank, as this could raise doubts on the validity of the official notebook entries.
2. It should be noted that the court has a right to review the whole official notebook, not just selected parts of it. For this reason, if the official notebook suffers serious damage it must no longer be used.
3. The investigator should underline the last entry made prior to the damage and insert the text "damaged", and strike through the remaining pages, initial and date and obtain a replacement official notebook.
4. You will be required to explain what happened to the book and why a replacement was obtained to the Team Leader/ Higher Investigations Leader.
5. Do:
  - make entries legibly in a full and factual manner
  - make entries in black ink
  - record day , date and time against each relevant entry
  - make entries at the time of the event being recorded or, where circumstances prevent this as soon as practicable afterwards
  - on conclusion of each deployment / duty sign and rule off the entry
  - use BLOCK (CAPITAL) LETTERS when writing names , days , dates , times , places, addresses and reference points
  - record times using 24 hour clock
  - ensure that any acronyms or shorthand is consistent throughout the N1
  - get the official notebook signed off by the Team Leader / Higher Investigations Leader on a quarterly basis (as a minimum), check each investigator's official notebook and the stockholders' register to ensure entries recorded are up to date, objectively factual, complete and does not contain personal remarks
  - cross out mistakes using a single line, initialled and dated
  - rule out blank spaces including unused space in the margin
  - summarise notes on to the relevant fraud files.
6. You must follow the NO ELBOWS rule:
  - E- no erasures
  - L- no leaves / pages torn out
  - B- no Blank spaces
  - O – No overwriting
  - W- NO Writing between the lines
  - S – No Statements not written in direct speech.



7. Each investigator must retain a single official notebook for all evidential purposes, which should be used until full or withdrawn for other specific reasons for example a change of duties or damage.
8. If it is taken out of use before it is full, insert the text "end of notebook" and strike through the unused pages, then the user initial and date.
9. Entries must be made in the official notebook for each working day and be timed and dated, in the margin, to ensure continuity of recording. When working indoors the entry 'Office Duties' and the date is sufficient. There is no requirement to record start and finish times in the official notebook when undertaking office duties; however it is good practice to do so.
10. Periods of absence from duty, for example, sickness or leave, should be recorded with one entry showing the first and last day of absence.
11. A margin is provided down the left-hand side of each page. Times and dates of recorded events should be the only entries in the margin.

## **Management checks**

12. The Team Leader (TL) / Higher Investigations Leader (HIL) or nominated investigator, not below the grade of Band C/EO, must on completion of the notebook or on a quarterly basis (as a minimum) check each investigator's official notebook and the stockholder's register to ensure that entries recorded are up to date, objectively factual, complete and do not contain personal remarks. Managers must ensure that:

- N1 notebooks are stored securely
- access to N1's is controlled
- full records of issue are kept, including, date, time, issuing manager, serial number and the name of the officer to whom the N1 has been issued.

13. The check should consist of selecting a minimum of one day's entries to ensure the official notebook is completed to the minimum standards. The nominated officer must initial and date the entry checked.

14. Frequent management checks are there not only to comply with policy guidance but also to ensure the integrity and reliability of the official notebook.

15. The checking should assist the Department for Work and Pensions (DWP) if the integrity of the official notebook is challenged in court, to show that:

- DWP can demonstrate that frequent management checks are undertaken to ensure completion of official notebooks adhere to policy guidance and the Criminal Procedure and Investigation Act 1996, (England & Wales) and
- investigators have an awareness of the importance that DWP attach to correct and accurate completion of official notebooks.

16. The TL / HIL should sign and date any notes that have been made in the official notebook during the course of accompanied visits, conducted for appraisal purposes.

17. It is recommended that TLs / HILs regularly compare entries in official notebooks where investigators have conducted joint visits and/or surveillance. This is to avoid potential conflicts of evidence in court.

## **Issue and storage of official notebooks**

18. The information contained in the official notebooks, along with static and mobile surveillance logs, constitutes original notes of evidence that is of a highly confidential nature. The official notebook should therefore be treated as a security item.

19. A stockholder and deputy stockholder appointed from the investigation team, not below the grade of Band B, must control and record the personal issue of official notebooks using a

N1/official notebook register. Only the stockholder or deputy, if the stockholder is absent, must order official notebooks.

20. Each official notebook must be sequentially numbered on the first page on receipt and held by the stockholder(s) with the official notebook register in official secure storage, such as lockable drawers or cabinets.

21. If the stockholder holds an official notebook, the deputy issues replacements to them when required and completes the N1/official notebook register.

22. The stockholder(s) uses the register to record the issue of official notebooks. The register has an individual Official Notebook Record sheet ([N1A \(link is external\)](#)) for each investigator, the format of which has been adopted from that used by Police for issue of Police notebooks.

23. Each official notebook must be signed for personally by the investigator who is asked to produce their current official notebook to demonstrate the need for a new one.

24. Each entry in the register uses the sequential number recorded on the first page of the official notebook.

25. Investigators should ensure that, if required, a new official notebook is obtained from the stockholder before completion of the official notebook in use.

26. Official notebooks must be used consecutively and the most recently issued official notebook must not be used until the previously issued official notebook has been fully completed or returned.

27. Completed official notebooks must be retained by the stockholder in official secure storage such as lockable drawers or cabinets for not less than three years or six months after expiry of an appeal against conviction, whichever is longer. Completed N1 notebooks should not be retained by FI. The Team Leader (TL) or Higher Investigations Leader (HIL) will ensure a full check is conducted on completion of the notebook or its return to the stockholder.

28. Before considering the destruction of official notebooks on the expiry of the retention period the stockholder should check with the investigator or TL / HIL if the investigator is not available:

- to ensure there are no outstanding issues. This would include cases where an entry is in connection with an on going investigation, a case that is still going through the court system or where the offender is still serving a prison sentence for a benefit offence
- To confirm whether the notebook can be destroyed where the investigator no longer works for Counter Fraud and Compliance Directorate (CFCD).

29. Official notebooks must be destroyed as confidential waste by the stockholder.

30. If an investigator ceases investigative duties, the official notebook currently in use must:

- have the text inserted “end of investigative duties”
- underline the entry and then sign and date underneath the line
- surrender the notebook immediately to the stockholder.

31. Notes relating to investigations which have resulted in a custodial sentence being imposed should be kept until the sentence has been completed, as the information may be required as part of a Criminal Cases Review Commission enquiry.

## **Loss of official notebook**

32. If an official notebook is lost, stolen or destroyed in all cases you must assume the N1 contains information that must not be in the public domain, and the following action must be taken:

- the investigator must report the details in writing to the Team Leader (TL) / Higher Investigations Leader (HIL), and then to the stockholder

- the TL / HIL must then report the facts of the loss and whether or not any specific sensitive information had been recorded in the N1 to their local Security Business Partner/Security Support Officer as a security incident.

33. In these circumstances, if the official notebook contained entries that had not been recorded in the Description field on FRAIMS or attached to the appropriate Case Activity, enter the details, as far as can be recalled, noting that the original record in the official notebook has been correctly reported and recorded as lost.

34. If an official notebook is reported lost, stolen or destroyed the stockholder can issue a replacement, after receiving notification in writing signed by the investigator and initialled by the TL / HIL.

35. The details must be entered on to the Official Notebook Record sheet ([N1A \(link is external\)](#)) and the written notification retained with it.

36. If the official notebook is subsequently recovered you must:

- insert the text “ Reported and recorded as lost, recovered on xx/xx/xxxx”
  - strike through the unused pages and sign and date them
  - surrender the recovered N1 to the stockholder
- The replacement notebook should continue to be used.

## 02 Entries in official notebooks

### Making entries

1. The official notebook is used for making contemporaneous notes, which means at the time or as soon as practicable afterwards.

2. Full and factually relevant details of activities must be recorded. This must include:

- observations
- information obtained prior to, and immediately after, the Interviews Under Caution that was not recorded by other means such as on an audio recording device or handwritten on the [CI9 \(link is external\)](#)/[CI9S \(link is external\)](#)/[CI9W \(link is external\)](#)
- visits to potential witnesses, and
- any other relevant information, for example; verbal requests for urgent oral authorisation of surveillance, or telephone conversations with the claimant or other parties which are relevant to the investigation.

3. Additionally in most cases the official notebook record must contain the following six key elements:

- on ‘X’ date
- at ‘X’ time
- at ‘X’ place
- I was with
- I saw and
- I did.

4. Entries must always be recorded in the official notebook where practicable; however, there may be exceptional circumstances where another medium has to be used. For example, observations carried out in public place where an investigator is using a prop as a cover. Make entries at the time of the event being recorded, or where circumstances prevent this as soon as practicable afterwards.

If an officer is unable to make N1 notebook entries at the time of the event, they must record the time the notes are being made and the reason for the delay. If the officer is using a review of video footage before making their N1 notebook entry, they must record that they are doing so and the reason.

If notes have to be made in an exceptional circumstance and the N1 official notebook is not available, the note should be formally preserved as an exhibit and attached to any subsequent statement.

Notes must be fact based, chronologically written, original, true to the memory and unchanged once written, And that notes are taken from the officer's point of view, which takes into consideration what the FI sees, hears and feels, three senses that video alone cannot provide. The notes are a record of the officer's perspective of what occurred.

The existence of video footage allows an officer to review events retrospectively to check for any inconsistencies. Where obvious inconsistencies exist, the officer must make reference to such in their notebook. For example, the original notebook entry may record the car registration number as AB12CDE whereas subsequent review of video footage shows the car registration number to be AB13CDE. In such circumstance, the officer would record that they had viewed video footage (exhibit xxxx in England and Wales only ) at such a time and confirmed that the car registration number was AB13CDE not AB12CDE as originally recorded.

5. It is not necessary to make a duplicate record in the official notebook; however, a cross-reference should be made to the original evidence in these instances.

6. Any unused space on a line or in the margin should be lined through.

7. At the end of each completed period of observation the note relating to that observation must be signed, timed and dated by the investigator.

8. The notes should be signed and dated by the investigator and a line drawn across the page at the end of each day's duty.

9. In addition to recording notes in the official notebook, it is also important that a summary of events is noted in the Description field on FRAIMS or is attached to the appropriate Case Activity. This enables the Team Leader / Higher Investigations Leader to keep up-to-date with developments on a case.

10. Cross reference to the page number of the official notebook that holds the details of the notes taken must be included in the summary.

## **Sensitive material**

11. It's important that you take care when completing the N1 to make sure you write down any sensitive information that could be important evidence on separate pages.

You must rule through the space underneath the previous (last) entry to the end of the double page and initial, date and time it.

You must then record the sensitive information on the following pages.

When you have finished recording the sensitive information you must rule through a blank space at the end of the notes to the bottom of the page with initials, date and time.

Continue normal recording on the next available blank page.

12. Investigators should note when providing copies of sensitive material, official notebook entries need to ensure sensitive material is suitably obscured.

13. Prosecuting authorities often require the investigator to provide copies of the sensitive material.

14. For further information on sensitive information, see Evidence Files – [Sensitive Information](#).

## **Incidents involving the public**

15. If an investigator is present at an incident involving members of the public and it is felt that their actions may lead to the possibility of complaint against the investigator, or the investigator is assaulted or threatened, details should be recorded as fully as possible in the

official notebook and an incident report completed in accordance with the DWP Policy on [UCB](#) (Unacceptable Customer Behaviour).

The matter should be reported to the TL /HIL as soon as practicable. A record of an incident in N1 does not mean you do not need to complete a formal incident report

## Office activities

16. It is necessary to record all relevant information obtained as a result of office activities by creating the appropriate Case Activity. Where it is not possible to do this immediately the information must be recorded in the official notebook.

17. A summary of the information recorded in the official notebook must be recorded in the Description field on FRAIMS or attached to the appropriate Case Activity with a cross reference to the official notebook page number.

18. For example this may be information obtained by:

- telephone calls to/from claimants
- telephone calls to/from employers
- telephone calls to/from landlords
- telephone calls to/from other Agencies or outside bodies involving evidence-gathering activities or
- details of all interviews conducted.

This list is not exhaustive.

19. The official notebook can be used in the evidence gathering stage to:

- record a seizure whilst accompanying Police searches
- record the fact that a claimant is supplying a piece of evidence
- record the fact that a piece of evidence was received through the post and
- record the fact that a piece of evidence was received from another member of staff within Jobcentre Plus/Local Authority(LA).

This list is not exhaustive.

20. The appropriate activity must be created on FRAIMS to record the evidence gathering

## Surveillance

21. The following instructions on static and mobile surveillance should be read in conjunction with those outlined in [Surveillance](#).

### Static surveillance

22. Always record:

- the time observations commence and finish
- the subject name and file reference number
- address/details of premises being observed
- purpose of the observations
- your position when making an observation including distance from the person or activity observed
- the light and weather conditions at the time of the observations
- whether observations are uninterrupted and unimpeded
- whether the person seen is known or has been seen before including a description, for details of IC Codes, see [Surveillance - IC Codes \(link is external\)](#)
- any special features, which may give cause to remember the person observed, objective descriptions must always be used
- full and factual account of activities observed, including information that may appear to hinder the case
- vehicle details including registration numbers
- information relating to third parties who appear to be connected with the observed

- if there is a significant delay in recording the event the record must indicate how long after the event the record was made and the reason for the delay in making the record and
- any errors or discrepancies in the record.

23. The use of the mnemonic ADVOKATE may assist when recording details of static observations in the official notebook.

**A**mount of time observations carried out

**D**istance from person observed

**V**isibility

**O**bstructions to sight

**K**nown or seen before

**A**ny reason to remember

**T**ime between observations and recording for example, reasons for delays in recording

**E**rrors or discrepancies for example, differences from description given.

24. Care must be exercised if this would identify a person co-operating with Counter Fraud and Compliance Directorate (CFCD) by allowing the use of their premises for carrying out observations.

25. If observations of the same suspect are carried out by more than one investigator, each investigator should cross-reference their entries and ensure that copies of entries in their own official notebook are recorded, see Adoption of Notes in official notebooks.

## **Mobile surveillance**

26. Wherever possible the points covered for static observations should be covered within the official notebook when conducting mobile surveillance. However, it is acknowledged that in some cases this type of surveillance does not allow for recording the same level of detail.

27. In all cases the official notebook must record:

- the time observations commence and finish
- the subject name and file reference number where known
- address/details of premises being observed
- purpose of the observations and
- reflect as full and accurate an account of observations as possible.

28. Where Surveillance Logs are used, during either static or mobile surveillance, it is sufficient to make a note in the official notebook to show the relevant operation name and to cross-reference the official notebook entry to the surveillance log.

29. A summary of the notes taken on the Surveillance log must be recorded by creating an activity on FRAIMS.

## **Employer or Landlord visits**

30. The official notebook record must include:

- name and address of each employer/landlord visited
- reasons for the visit
- full explanation given of Section 109B and 109C powers
- issue of Information Leaflet and, also record if Code of Practice issued following a request
- whether permission to enter the premises was granted or refused
- details of persons interviewed
- whether an employer is asked or volunteers to shut down normal mechanical operations of the workplace
- whether any person not employed by the employer is on the premises and what action was taken to allow them to leave
- in joint exercises what action is taken by accompanying investigators and, when the accompanying investigators use their own powers, what actions are taken by the investigator
- records of interviews conducted and
- record of all other action taken.



31. A summary of the notes taken in the official notebook must be recorded in the appropriate Case Activity Description field on FRAIMS

## **Claimant visits**

32. The official notebook record must include:

- name and address of each claimant visited
- reasons for the visit
- whether permission to enter the premises was refused
- details of persons interviewed
- in joint visits what action is taken by accompanying investigators
- records of interviews conducted and
- record of all other action taken.

33. A summary of the notes taken on the official notebook must be recorded in the appropriate Case Activity Description field on FRAIMS.

## **Interviews Under Caution**

Interviews Under Caution (IUC) are normally audio recorded, or contemporaneously on the appropriate form. Where this is the case, it is only necessary to record details of any relevant comments/significant statements made outside the IUC.

Record the following details in the official notebook:

- name of the person who made the relevant comment and/or significant statement
- any relevant comments and/or significant statements made which are not recorded on tape or contemporaneously on an appropriate form
- date and time of the relevant comments and/or significant statements
- location of where the comment/significant statement was made, for example, within the waiting room, on the way to the room.

Ask the person interviewed to sign the official notebook record to confirm their agreement.

If, prior to or following the suspension of an IUC, the suspected person speaks to an investigator, even over the telephone, the full details of the conversation must be recorded contemporaneously in the official notebook and must be recorded by creating a new activity on the appropriate Case Activity within FRAIMS. These notes may include consideration of the need for an appropriate adult and any discussion relating to its provision or agreement that one is not required and why.

In exceptional circumstances, if it is not possible to record an IUC on tape or the appropriate form, it must be recorded in the official notebook in accordance with Police And Criminal Evidence Act and in the same way as using the appropriate form. Ask the person interviewed to sign and date the record as a true record of the interview.

If an official notebook is used to record an IUC the record must include:

- name of the person interviewed
- date and time the interview started and finished
- location of the interview
- reason for the interview
- any pre-caution explanations given, and
- the reason the IUC was not conducted using an audio recording machine or on the appropriate form.

A summary of the IUC taken in the official notebook, including any pre-caution or relevant comments must be included on the appropriate Case Activity on FRAIMS.

## **Adoption of notes in official notebooks**

41. It may not always be possible for all investigators to make notes for example, one may be the driver of a car involved in a mobile surveillance and the other the passenger in the car. In this scenario the passenger would make notes and the driver would adopt them.

42. This must be done by recording in the adopted official notebook:

- I have read the above notes, I was present when they were made, I confirm they are correct and adopt them as my own and
- sign, time and date entry in the adopted official notebook and cross-reference in own official notebook.

43. Notes should only be adopted by officers when they actually perceive or witness the events recorded in the notebook. Notebook entries should not be adopted if the adopting officer did not observe the events or is not sure whether the events recorded in the notebook are accurate.

44. When two or more investigators are present at an interview with an employer/landlord using Section 109B or 109C Powers, one investigator should conduct the interview and the second investigator should make notes in the official notebook.

45. The first investigator should summarise the interview in their own official notebook and adopt the second investigator's notes. The official notebook entry adopting the second investigator's notes should also include the time of adoption.

46. When two investigators are participating in a fraud drive or observations, each must make their own notes and a summary in the appropriate [surveillance summary and covert surveillance summary \(link is external\)](#) and Case Surveillance Activity Description field on FRAIMS with a cross reference to the official notebook notation. Each investigator must record the events that they witness.

### **Transferring official notebook entries to FRAIMS**

47. A summary of the notes taken on the official notebook must be recorded in the Description field on FRAIMS or attached to the appropriate Case Activity.

## **Open Source instructions**

### **00 Introduction**

1. These instructions set out the legal and regulatory framework within which all open source research and intelligence gathering must be conducted within the Counter Fraud and Compliance Directorate (CFCD). Instructions are applicable to all CFCD officers involved in benefit fraud investigations and wider intelligence gathering. All officers engaged in open source activity must understand and comply with instructions in order to make sure the integrity of evidence gained, but also to avoid breaching legal requirements and compromising investigation tactics; computer system infrastructure and avoid reputational damage.
2. Instructions highlight the principles set out in legislation that are applicable to open source research and intelligence gathering, taking into account the National Police Chiefs Council – Guidance on Open Source Investigation or Research; [Regulation of Investigatory Powers Act 2000 \(RIPA\)](#) (link is external) and the [Covert Surveillance and Property Interference](#)



[Code of Practice \(link is external\)](#) and associated guidance ([Office of Surveillance Commissioners Procedures and Guidance \(link is external\)](#)); Human Rights and Data Protection legislation.

3. Instructions are there to assist CFCD officers engaged in open source research to make sure compliance with [Human Rights Act 1998 \(HRA\) \(link is external\)](#) and RIPA 2000. They contain key considerations to support officers in assessing the use of open source and the legal considerations. All open source activity must be considered on a case by case basis. Advice may be obtained from an Authorising Officer within the Covert Authorities Bureau (CAB).
4. The Investigatory Powers Commissioner's Office (IPCO) conducts a yearly inspection and review of the use of covert surveillance, Covert Human Intelligence Sources (CHIS) and property interference by public authorities to make sure that RIPA is applied correctly.

## 01 What is 'open source research'?

5. Open source research and intelligence gathering is the use of online sources to research or gather intelligence for the prevention and detection of fraud. The internet has become a fast growing online communication device and a useful tool for gathering and obtaining information, much of which is publicly available to anyone with internet access. This information is known as open source information.

6. Online open sources such as social media, internet, chat rooms/forums and websites can be an important source of information in combatting benefit fraud. These instructions set out the legal principles engaged in using the internet as a research or investigative tool and considerations to be applied. Officers must consult the dedicated Internet Desk based in **[Redacted](40 \*** or the Covert Authorities Bureau (CAB) if unsure of the application of the legal principles.

7. While carrying out open source research, officers need to be cautious of it involving the systematic surveillance of an individual and obtaining of private information relating to a person's private or family life as defined in [Section 26 \(link is external\)](#)(10) of Regulation of Investigatory Powers Act 2000 (RIPA). Officers need to be aware of when information gathering risks crossing the threshold and may amount to profile building. Officers engaged in obtaining private information must consider seeking authorisation for [directed surveillance \(link is external\)](#) in accordance with RIPA. Also see [Definitions relevant to open source/surveillance](#).

## 02 Key factors to assess when considering use of open source

8. All uses of open source research as a means of investigating an individual must be considered on a case by case basis.
9. Officers must clearly identify from the outset what they are seeking to achieve by way of open source and the reasons behind it. This will assist in justifying the use of open source and also may indicate whether a [directed surveillance \(link is external\)](#) authorisation is required.
10. Officers must consider proportionality, necessity, collateral intrusion and privacy of the individual concerned and whether there are other ways of obtaining the information required.
11. If officers consider that there is a need to view material over a protracted period of time to accumulate private information or monitor the individuals activities, i.e. anything more than twice, then they should be considering an authorisation under Regulation of Investigatory Powers Act 2000 (RIPA), as repeat viewing may constitute directed surveillance. There is a professional responsibility for individuals to ask themselves why they want to look at the material, and what they will do with the information.

12. Single use open source will generally not amount to directed surveillance but expectation of privacy still needs to be considered. See [Personal information/Collateral intrusion](#).

The Department for Work and Pensions (DWP) are not authorised under RIPA to conduct Covert Human Intelligence Source (CHIS) activity, therefore there must be no establishing relationships with individuals. [Redacted]

Officers must consider the activity being undertaken and whether it will amount to monitoring; observing or following an individual or group, their movements, activities or communication with others. See [Appendix 1 – Responsibilities](#).

13. Consider the parameters of the research, how often, what information is being sought and factoring in a regular review of the open source research activity.

## 03 Definitions relevant to open source/surveillance

### Open source

16. The following definitions are there to assist those involved in open source activities:
- Open source intelligence gathering – the collection of materials from sources available to the public through open source research for the purpose of analysing and evaluating for use in individual investigations. Applies to Investigations.
  - Open source information – Publicly available information (any member of the public could lawfully obtain the information by request or observation) from public sources such as books; journals; television and radio broadcasts; newswires; Internet web domain and newsgroups; mapping; imagery; photographs; commercial subscription databases. Applies to Investigations/Case Preparation.
  - Open source research - The collection, evaluation and analysis of material from online sources available to the public, whether on payment or otherwise, to use as intelligence in wider counter fraud investigations. Applies to Serious and Organised Crime.

### Surveillance

- Surveillance – Surveillance can take many forms which can involve monitoring, listening or following an individual or a group either with or without a technical device and can be overt or covert. See [Surveillance instructions \(link is external\)](#) on Regulation of Investigatory Powers Act 2000 (RIPA) and directed surveillance authorisations. Surveillance for the purposes of RIPA is defined within the Covert Surveillance Codes of Practice as that which includes: monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained.
- Covert surveillance – Surveillance is covert, if and only if, it is carried out in a manner calculated to ensure that any persons who are subject to the surveillance are unaware that it is or maybe taking place.
- Directed surveillance – It is directed surveillance if the surveillance is covert; for the purposes of a specific investigation or operation; likely to obtain private information about a person; and conducted otherwise than by way of immediate response to events or circumstances.
- Private information – This is information relating to a person's private or family life and can include any aspect of a person's relationship with others. The right is subject to proportionate and lawful restrictions. It is a broad ranging right. The right to a private life encompasses the interaction that a person has with others in private and in public.  
[Redacted]

## 04 Personal information/Collateral intrusion

17. Open source activity involves accessing information which is available publicly, usually on the internet.

18. Simply because information is available online does not necessarily mean that the person to which the information relates does not have an expectation of privacy. An expectation of privacy may be implied due to things like the nature of the information, the source or location of the information or where certain access settings have been applied by the subject to restrict who can view their information (for instance settings on social media). Even if privacy settings are not set i.e. the information is available publicly, officers must still consider the extent of privacy attached to the information.
19. Open source activity may inadvertently involve the viewing of third party information. Any collateral intrusion must be avoided or minimised where possible, particularly where it results in the obtaining of private information. This sensitivity increases where the third parties are children or other vulnerable persons. You must audit the considerations around privacy issues and collateral intrusion, for example, documenting the source and type of information obtained and the privacy settings applied to the source and explaining why you consider that any expectation of privacy is minimised in those circumstances.

**[Redacted]**

**[Redacted]**

20. Although open source research may not initially amount to surveillance, there is the potential for activity to cross the parameters of surveillance. Officers must take care to ensure that research is not in fact [directed surveillance \(link is external\)](#), requiring Regulation of Investigatory Powers Act 2000 (RIPA) authorisation. For example, will the open source research result in a bypassing of privacy settings and/or will it involve repeated viewing that will build up a profile of a person's lifestyle.
21. The use of online open source research or intelligence gathering should be assessed on a case by case basis before such activity is carried out and an on-going assessment of the risks of obtaining personal information and any action required to be taken if necessary.

## 05 Operational considerations

24. The following are key operational factors that must be in place for open source research and intelligence gathering.

Open source research which is not intrusive (i.e. news sites; maps; street views; auction sites) can be viewed on networked computers by officers within Counter Fraud and Compliance Directorate (CFCD). Where the open source research is more covert

**[Redacted]**

Case Preparation receive and process allegations of fraud before deciding if the case should be escalated as a criminal or compliance issue, or if no further action is required.

Case Preparation use **[Redacted]**

25. A full audit trail of the actions taken during the research or intelligence gathering must be kept, particularly where the information is likely to be required as evidence in proceedings. The audit trail will include the following non exhaustive factors: the considerations applied in the decision to undertake open source activity including the proportionality and necessity of doing so; any RIPA considerations (to be kept under on-going review); purpose and objective of the search; information obtained and its storage; any notes taken during the search.
26. Processes must be in place to record and capture the content of any open source material which will be of evidential value. These processes should ensure the integrity and authenticity of the evidence and that it is preserved and presented in a manner to be used as part of the investigation process and in court proceedings.

Serious and Organised Crime officers **[Redacted]**

## 06 Overview of the legal framework

30. The use of open source research in the Department for Work and Pensions (DWP) may impact on the following legislative framework and prior to engaging in open source activity

officers must have a good understanding of the legislative framework and accompanying guidance:

- [Human Rights Act 1998 \(link is external\)](#)/[European Convention on Human Rights \(link is external\)](#)
- [Regulation of Investigatory Powers Act 2000 \(link is external\)](#)
- [Data Protection Act 2018 \(link is external\)](#)
- [Computer Misuse Act 1990 \(link is external\)](#)
- [Criminal Procedure and Investigations Act 1996 \(link is external\)](#)

## **Human Rights Act 1998 / European Convention on Human Rights:**

31. Article 8 of the European Convention on Human Rights (ECHR) as given force in the United Kingdom (UK) law through the Human Rights Act 1998, safeguards an individual's right to respect for their private and family life. This is the right which is most likely to be engaged in open source research and intelligence gathering.
  - 8.1 Everyone has the right to respect for his private and family life, his home and correspondence.
  - 8.2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
32. Article 8 can be engaged in a wide number of situations but the right is a qualified right which means interference is permissible if it is proportionate, necessary and in accordance with the law. In accordance with the legislative framework, any interference must be necessary for a specific and legitimate objective; proportionate to the objective in question and in accordance with the law. Any restriction must strike a balance between the competing interests of the individual and others.
33. Private life encompasses interaction a person has with others in private and also in public therefore there can be expectations of privacy even when individuals post online. Officers must be aware of the balance to strike between an expectation of privacy and the public nature of the information obtained. For example, privacy settings being used by an individual on their social media account might arguably take the information out of the public sphere to the private sphere (and would be out of scope for officers, as most would likely require use of Regulation of Investigatory Powers Act 2000 (RIPA) such as Covert Human Intelligence Source (CHIS)), however even where there are no privacy settings there is still a need to consider whether there is an expectation of privacy depending on the nature of the information shared.

For example, [Redacted]

Any restriction with this right must be for [Redacted]

The interference must be subject to a legal rule or regime that authorises the interference, therefore any RIPA authorisations must be sought where RIPA protections are engaged and that the information obtained is processed in accordance with the Data Protection Act 2018 (DPA).

34. The interference must be proportionate, so on a case by case basis officers must assess whether the use of open source intelligence gathering is proportionate in its application and effect, that is not excessive and more intrusive than is warranted and that there are safeguards in place.

## **Regulation of Investigatory Powers Act 2000:**

38. The [Regulation of Investigatory Powers Act 2000 \(RIPA\) \(link is external\)](#) regulates the powers of public bodies to carry out surveillance investigations including access to a person's electronic communications.
39. While RIPA contains a number of powers, the Department for Work and Pensions (DWP) are only authorised to conduct directed surveillance (under Part II RIPA) but are **not** authorised to conduct any of the other activities set out in RIPA, that is conduct [intrusive surveillance](#); access communications data, or to conduct [Covert Human Intelligence](#)

[Source \(link is external\)](#) (CHIS) operations. (Counter Fraud and Compliance Directorate (CFCD) can request [communications data](#) under 109B(2A)(j) of the [Social Security Administration Act \(SSAA\) 1992 \(link is external\)](#), as amended by the [Social Security Fraud Act \(SSFA\) 2001 \(link is external\)](#)).

40. Officers must be mindful of the RIPA threshold to make sure that any open source activity does not inadvertently breach RIPA safeguards and that where the activity amounts to directed surveillance.
41. DWP are not authorised to engage in CHIS activity, as DWP is not an authorised body for the purposes of CHIS under RIPA. Officers must not establish a personal relationship for the purpose of obtaining information, for example, creating a false persona online to interact with an individual or acceptance of a friend request on social media sites to interact with an individual.
42. Where the open source activity appears to meet the threshold for a directed surveillance application under RIPA 2000 Part II, contact must be made with the Central Authorities Bureau (CAB) in order to obtain the necessary [authorisation \(link is external\)](#), as the potential for legal challenge in respect of rights of privacy is high.

Viewing open source information does not necessarily amount to obtaining private information as generally the information is publicly available, however there may be certain online activity or information which may meet the threshold or may amount to directed surveillance. For example, **[Redacted]**

An example of open source research **[Redacted]**

Repetition is **[Redacted]**

43. The effect of any collateral intrusion on third party privacy must be considered. The use of open source research must take into account the risk of interference with the privacy of persons who are not the subject of the activity and interference must be avoided and reasonable steps must be taken to minimise the acquisition of information that is not directly necessary for the purposes of the investigation or research. Individuals who are vulnerable by reason such as age, illness, disability need extra safeguarding to make sure that the risk of collateral intrusion is avoided or minimised.
44. The gathering of historical data on open source sites follows the same principles in respect of considering whether the activity being undertaken would fall within the surveillance definition in RIPA and whether it is likely to obtain private information. For example, what is the method by which the information will be gathered and what activity would it amount to (that is monitoring of a person; their movements, activities or communication with others).
45. The use of open source research may in certain cases amount to being a preliminary stage to directed surveillance under RIPA, where open source material is viewed in a non-systematic way, that is to obtain single piece evidence, which can assist in the consideration as to whether directed surveillance may be required and assist in considering whether it is necessary and proportionate to undertake directed surveillance.

## **Data Protection Act 2018**

49. The [Data Protection Act \(DPA\) 2018 \(link is external\)](#) sets out the legal framework for the way in which public bodies process personal information, processing is given a wide interpretation and includes obtaining personal information by accessing websites. Personal data is any information which can be used by the data controller to identify a particular person.

## **Computer Misuse Act 1990**

50. The [Computer Misuse Act 1990 \(link is external\)](#) sets out three criminal offences in relation to unauthorised accessing of computer material which covers accessing a computer or the material stored on the computer without authorisation which can include using another person's username and password without authority or consent; altering, deleting or copying data or impersonating that other person using email, online chat or web based services.



51. Counter Fraud and Compliance Directorate (CFCD) officers must not be encountering any aspects of the type of behaviour set out in the criminal offences in the Act while undertaking open source research or intelligence gathering. Staff must be aware of the offences and in particular the impersonation of the other person using email, online chat or other web based services as this would be the only activity that might be encountered while conducting research online.

### **Criminal Procedure and Investigations Act 1996**

52. When conducting open source research, officers must be aware of and comply with [Criminal Procedure and Investigations Act 1996 \(CPIA\) \(link is external\)](#) disclosure obligations. An audit trail must be being kept of open source activities in any event and this audit trail must meet CPIA obligations. Written records are to be kept of the type of open source activity undertaken; the information obtained and any notes made

## **07 Appendix 1 – Responsibilities**

<b>Business area</b>	<b>Intelligence type</b>	<b>Check</b>	<b>Computer type</b>	<b>Nature of website</b>	<b>Training required</b>
Case Preparation	Open source	None systematic	Network	Facebook	CFCD Open Source Work Instructions, <a href="#">DWP Acceptable Use Policy (link is external)</a> , <a href="#">DWP Open Source Security Policy (link is external)</a> and DWP Social Media Policy (not yet available)
Investigations	Open source	None systematic	Network	News sites, media sites, Twitter, 192 searches, mapping, LA sites, auction sites, Companies House, Charities Commission	CFCD Open Source Work Instructions, <a href="#">DWP Acceptable Use Policy (link is external)</a> , <a href="#">DWP Open Source Security Policy (link is external)</a> and DWP Social Media Policy

Internet Desk  Serious and Organised Crime	Covert Open Source Research	Intermittent Monitoring	Non-attributable	[Redacted]	Open Source course (Police trained in search methods and evidence capture)
Internet Desk  Serious and Organised Crime	Covert engagement	Constant monitoring (RIPA 2000)	Non-attributable	[Redacted]	In depth security and legislation

## Opening Minute – Investigations

### 00 Introduction

1. It is essential that an opening minute is thoroughly documented. The Criminal Procedure and Investigations Act (CPIA) state that it is the responsibility of the investigator to obtain and record all relevant information as soon as it is practicable to do so.
2. A thoroughly documented opening minute provides a clear overview of the allegation, and will direct which lines of enquiry need to be pursued, while ensuring all relevant information is recorded and retained.
3. This should ensure that unnecessary delays are avoided and that relevant and necessary action can be taken.

### 01 Covert Human Intelligence Source (CHIS)

4. All referrals must be checked for [CHIS \(link is external\)](#) and the outcome of this check recorded in [FRAIMS \(link is external\)](#).
5. Section 26(8) of the Regulation of Investigatory Powers Act (RIPA) 2000, the definition of a CHIS states:

1. 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);
  2. He covertly uses such a relationship to obtain information or to provide access to any information to another person; or
  3. He covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.
6. A person does not have to create or maintain a relationship with the alleged to be CHIS, they can be CHIS by purely providing information about them.

7. A CHIS can be anybody involved in the investigation

8. Anyone investigating a case who conceals their identity could be a CHIS.

9. A person is not necessarily a CHIS if:

- more than one allegation is received from what appears to be the same anonymous source, providing that there are no indications that a relationship is being established or maintained between the informant and the subject to covertly obtain information
- if the second allegation is the same as the first it may be that it is not a CHIS but if additional information is received over a number of allegations this may indicate that a CHIS does exist.

10. [How to determine if somebody is a CHIS \(link is external\)](#)

Ask yourself how the information was obtained:

- do you suspect that the person giving the information has formed a relationship or is maintaining a relationship in order to obtain information?
- do you think that the person giving the information is being secretive and not saying that they are passing the information to DWP?

If the answer to either of the questions above is 'yes', consider that the person who is giving the information could be classed as a CHIS.

11. If you [suspect that the person you are dealing with may be a CHIS \(link is external\)](#), you must [refer the case to your Team Leader \(link is external\)](#) for continued CHIS action. If required, advice can be obtained from the Covert Authorities Bureau (CAB) **[Redacted]**.

12. CFCD Covert Authorities Bureau (CAB) provide advice on:

- how to handle the information already given
  - what to do if the information source makes further contact.
- Whether you need to make contact with the CHIS to alert them of the dangers of continuing to seek further information.

## 02 Opening Minute

The following information must be recorded on the [FRAIMS Opening Minute Activity \(link is external\)](#).

13. Covert Human Intelligence Source (CHIS) check - enter the outcome of the CHIS check.

14. FRF Summary - enter a short description of the allegation from the FRF (This does not need to be included if it's recorded in the Routing Minute).

15. Summary of current known information - enter a brief summary of the information already held, in order to support the activities in the Investigation Plan. (This does not need to be included if it's recorded in the Routing Minute).

16. Benefit Details - enter details from all Benefit Checks. Details provided in the routing minute do not need to be recorded, however any new information found must be included (information out of date, etc.)

17. Potential overpayment - enter amount of potential overpayment – if known, if not known; enter 'overpayment estimated to be over £3k. (This does not need to be included if it's recorded in the Routing Minute.)



18. Investigation Plan - an Investigation Plan must be recorded to explain what has been gathered and the next intended steps. All actions recorded in the Investigator Plan must be reasonable, proportionate and appropriate to the allegation being investigated.

## **03 Examples of initial action to be recorded on FRAIMs case**

### **Example 1 - Living Together**

**[Redacted]**

### **Example 2 - Living Together**

- **[Redacted]**

### **Example 3 – RTi working**

- **[Redacted]**

### **Example 4 – Working In Receipt**

**[Redacted]**

## **Other Payees**

### **00 Introduction**

#### **Claimant incapable of managing own affairs**

1. If a claimant is incapable of managing their own affairs they may have assistance to claim, collect and receive benefits.

2. A person who collects or receives payment on behalf of the claimant in these circumstances is known as an 'Other Payee'.

3. As well as being an individual, an Other Payee can be an organisation, or a representative of an organisation, acting in an official capacity. In these circumstances, the Other Payee is referred to as a 'Corporate Other Payee'.

4. Types of Other Payee include:

- deputy
- controller
- judicial factor
- guardian
- curator bonis
- tutor
- attorney
- appointee
- parent/guardian
- alternative payee

- Death Arrears Payee (DAP)
  - Split Payment Payee (SPP).
5. [The Agents, Appointees, Attorneys and Deputies Guide \(link is external\)](#) provides detailed guidance about Other Payees.

## 01 Other Payees

### Appointee

1. An Appointee is fully responsible for acting on the claimant's behalf in all the claimant's dealings with the Department. This includes:

- claiming benefits, including completing and signing any claim forms
- collecting or receiving benefit payments
  - payments will be in the name of the appointee
  - the money must be used for the welfare of the claimant
- reporting any changes in claimant's circumstances, for example a change of address

2. An appointee can be:

- an individual, for example:
  - a relative
  - friend
  - a Local Authority
  - Nursing Home
- an organisation

3. The Appointee is also responsible for reporting any changes in their own circumstances that the Department may require, for example, a change of name or address.

4. As a legal requirement, Appointees must have their appointments reviewed to check the continuing need for, and suitability of, people appointed by the Secretary of State to act on the behalf of others.

5. Cases where there is an ongoing fraud investigation are excluded from the review process. See [Appendix 19 Appointee Review Process \(link is external\)](#) of The Agents, Appointees, Attorneys and Deputies Guide for further details see [Managing cases on FRAIMS](#).

### Power of Attorney

6. A Power of Attorney is a legal contract between a person and a third party that allows the third party to act in the person's affairs.

7. The Power of Attorney can be granted to:

- an individual
- two or more individuals as Joint Attorneys
- an organisation

8. The Attorney can be given:

- general powers to handle all the person's affairs
- specific powers to handle some of the person's affairs
- Power of Attorney for a limited period

### Corporate Other Payee

9. A Corporate Other Payee is an organisation appointed to act on behalf of the claimant. It is not a named individual. Examples of a Corporate Other Payee are:

- a Local Authority (LA)
- a care home
- a charity
- an Area Health Authority (AHA)
- a firm of solicitors

10. Corporate Other Payee details are obtained when a claim to benefit is made or when an application to act as a representative is submitted when benefit is in payment.

11. The Crown Prosecution Service (CPS) will treat cases considered appropriate for prosecution on a case by case basis dependant on the facts, supporting evidence and public interest considerations of each case.

## 02 Managing cases on FRAIMS

1. A Fraud Referral Form (FRF) / Incident may be received in the name of the claimant or the Other Payee.

2. Once it has been established that an Other Payee is responsible for managing a claim to benefit, there may be a requirement to:

- seek approval to close the case in the claimant's name, as no fraud established
- create a new case in the Other Payee's name, see [FRAIMS guidance – Create another case](#)
- transfer relevant documents from the claimant's evidence file to the new file opened in the name of the Other Payee.

3. A new case must be opened on FRAIMS in the Other Payee's name. For a Corporate Other Payee, this should be the name of the appointed organisation.

4. In cases where the investigation against the claimant is to continue, open a separate case, and, if appropriate, evidence file for the Other Payee

## 03 Overpayments

1. Where the Other Payee fails to act appropriately on behalf of the claimant, for example, they are the person who made the misrepresentation or failed to disclose a change in circumstances, then they may be held responsible for the overpayment.

2. In such circumstances, the Other Payee must be interviewed under caution to establish the facts.

# Prosecution Authorities Role

## 00 Introduction

### Introduction

1. This section provides background information about the role of Prosecution Authorities in Counter Fraud and Compliance Directorate (CFCD) prosecutions.

2. The guidance covers both the role and responsibility of the Procurator Fiscal who is the prosecution authority for Scotland and the Crown Prosecution Service who deals with prosecutions for CFCD, and some Local Authorities (LAs), in England and Wales

## 01 Crown Prosecution Service

### Crown Prosecution Service

1. The Crown Prosecution Service serve the:

- Department for Work and Pensions and Department of Health, and their respective agencies; including The Pension Service
- NHS Counter Fraud & Security Management Service, Medicines and Healthcare Products Regulatory Agency
- Office for National Statistics.

2. They also deal with benefit fraud prosecutions on behalf of a number of Local Authorities

### Responsibilities of the Crown Prosecution Service

Crown Prosecution Service (CPS) operates the Code for Crown Prosecutors in determining the appropriateness of cases for prosecution.

The [Code for Crown Prosecutors \(link is external\)](#) encompasses two tests, the Full Code Test and the Threshold Test.

The Full Code Test requires Crown Prosecutors to adopt a two-staged test when deciding whether a case is suitable for prosecution. The two stages are the Evidential Stage and the Public Interest Stage, both of which need to be met for a prosecution to proceed.

The Evidential Stage is met if CPS is satisfied that there is enough evidence to provide a realistic prospect of conviction against the Defendant on each charge.

When deciding whether there is enough evidence to prosecute, CPS must consider what the defence case may be, whether the evidence can be used and whether it is reliable.

In applying the Public Interest Stage, CPS must be satisfied that it is in the public interest to prosecute the claimant.

Where CPS do not consider that a case referred is appropriate for prosecution a written explanation of the decision is provided.

### CPS Area Fraud centres

CPS have three Area Fraud centres each covering roughly a third of England and Wales:

- **[Redacted]**  
**[Redacted]**  
**[Redacted]**  
**New case referrals:** **[Redacted]** (via Digital Case Management Unit - England and Wales (DCMU)).  
**General enquiries:** **[Redacted]** **CPS Mersey Cheshire Fraud centre** if the offending takes places in the following geographical regions:  
**[Redacted]**  
**New case referrals:** **[Redacted]**  
**General enquiries:** **[Redacted]**  
**[Redacted]**  
**[Redacted]**  
**[Redacted]**  
**[Redacted]**  
**Examples of cases which must be referred to CPS Area centres:**
  - Living Together case
  - Disability Living Allowance offences

- failing to notify of a change in circumstances relating to benefits payments
- falsely claiming tax credits
- Student Loan fraud
- Child Maintenance Offences
- cash seizures.

## **CPS Specialist Fraud Division**

CPS Specialist Fraud Division (SFD) handle cases of alleged fraud or economic crime which are considered to be serious, complex and or highly sensitive. These cases are more normally handled by Serious and Organised Crime (SOC) within Counter Fraud and Compliance Directorate (CFCD).

Serious and Organised Crime already receive referrals directly following the following principles:

[Redacted]

## **CPS Specialist Fraud Division centres**

CPS Specialist Fraud Division (SFD) centres are:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

The decision to request DCMU to send the case to these specialist CPS prosecution centres is made in conjunction with the manager before submission, and is likely to be the exception. Any case being dealt with by the Serious and Organised Crime (SOC) within CFCD is handled directly with the relevant CPS SFD centre.

## **Advice cases**

CPS can provide advice on legal issues in relation to the prosecution of specific cases.

Requests to CPS for legal advice on case specific issues can be made by members of the Counter Fraud and Compliance Directorate (CFCD) and must be sent by email.

The enquiry must specify the issues on which advice is requested. Where appropriate, CPS require all supporting documentation.

Phone enquiries to CPS can be made although usually all the relevant documents are required before comprehensive advice can be given.

## **Disputes and escalation process**

### **Standards for charge, no further action and action plan**

Where the case passes the full code test (FCT) it must be charged (the FCT includes CPS disclosure obligations).

Where the case passes the FCT but is missing an item or items which do not change the nature of the evidence in the case then it is for the lawyer to decide whether to charge and action plan (AP) or just to AP.

Where the case does not pass the FCT and is missing evidence and or disclosure is necessary for the lawyer to make a decision then the case must be no further action (NFA).

There is lawyer discretion in this process and lawyers who feel that a case is essentially well prepared but with a minor error or is high in value (just two examples and not to be taken as exclusive or indicative) they may want to send an AP to assist DWP in repairing it. The more straightforward the case, the less likely it is that such discretion will be administered. All of this is within individual lawyer's discretion and is not contrary to the general advice.

#### **Review process – steps**

1. NFA case received and Fraud Investigator (FI) wishes to review the decision.
2. FI refers to the Team Fraud Investigator (TFI), if the TFI supports the review then TFI completes a [TFI1](#) and sends it to the reviewing lawyer via the Pre-Charge Decision (PCD) inbox. If TFI does not support a review complete as business as usual (BAU).
3. Lawyer reconsiders the case and if the lawyer decides to proceed to charge then continue as BAU.
4. The reviewing lawyer may decide to decline to reconsider due to an inappropriate referral or refuses to review on appeal.
5. Where the lawyer declines to reconsider or review the case TFI may consider a further request for review.
6. TFI refers to Group Manager (GM) via a Senior Executive Officer (SEO). If the GM supports a review then the GM completes a [GM1](#) and submits to CPS Unit Head via the PCD inbox.

#### **PCD inboxes**

[Redacted]

[Redacted]

[Redacted]

#### **Re-consideration on submission of additional evidence**

When a case is NFA and the investigator decides to obtain more evidence to improve the case any re-submission must come back through the GM, and be sent by the GM, to the reviewing lawyer via the inbox using a [GM1](#) form. This referral must include an explanation as to why the evidence was not provided in the first instance. It is then for the lawyer (in consultation with their Unit Head) to decide whether to accept the same.

#### **Closing action plan cases**

Where an AP is sent, a time limit of 28 days is imposed for compliance. Unless the CPS are provided with the missing evidence or hear from the FI to say that they are progressing it, the file will be closed after that 28 day limit. No reminders are sent out.

## **02 The Procurator Fiscal Service**

### **Office of Lord Advocate**

1. The prosecution of crime in Scotland is a public function exercised by the Lord Advocate in the public interest. He is helped by:

- the Solicitor General
- Advocate Deputes and
- Procurators Fiscal (PF).

2. The office of the Lord Advocate is an ancient one. The Lord Advocate and the Solicitor General are Ministers of the Government and the incumbents change with the government of the day.

3. Scotland's system of public prosecution distinguishes it sharply from the position in England, where the right of private individuals to institute criminal proceedings is a fundamental part of the system.

4. The PF are legally qualified civil servants. They are permanent officials who do not change with the government of the day.

### **The Crown Office**

5. The Crown Office is the Departmental Headquarters of the PF Service. It advises and instructs PF on serious cases and issues of complexity or sensitivity

### **Aims and Objectives**

6. The aims and objectives of the PF Service, relevant to the Department for Work and Pensions (DWP), are to:

- serve the public interest by providing a system of independent public prosecution
- ensure that all crimes made known to the PF Service are properly investigated
- ensure that persons charged with offences are dealt with in the most appropriate way having regard to the public interest, either by prosecution or by an alternative
- ensure that all cases are properly prepared, fairly presented and if necessary, discontinued
- ensure that prosecutions are progressed within statutory time limits without unnecessary delay and, so far as within the control of the Crown Office Scotland, are brought to an early conclusion and
- advise other Departments, such as the DWP, on criminal legislation.

### **Structure**

7. The Procurator Fiscal (PF) Service is divided into eleven areas, with an Area PF for each.

8. These areas coincide as far as possible with the boundaries of the eight Scottish police forces, except in Strathclyde which has been divided into four areas.

9. The eleven areas are:

- Argyll and Clyde based in Paisley
- Ayrshire based in Kilmarnock
- Central based in Stirling
- Dumfries and Galloway based in Dumfries
- Fife based in Kirkcaldy
- Glasgow
- Grampian based in Aberdeen
- Highlands and Islands based in Inverness
- Lanarkshire based in Hamilton
- Lothian and Borders based in Edinburgh
- Tayside based in Dundee.

10. Within the areas, there is a network of forty-eight PF offices, one for each Sheriff Court district.

11. The Area PF exercise administrative, rather than operational control of their region.

### **Responsibilities of the Procurator Fiscal**

12. The Procurator Fiscal (PF) responsibility in relation to crime committed in Scotland covers both its investigation and its prosecution.

13. The PF is an independent public prosecutor who receives and considers reports of crimes and offences from the police and over fifty non-police reporting authorities.

14. The PF decides whether or not to take criminal proceedings in the public interest.

15. The PF prosecution function is the principle feature of this system. Of central importance in this respect is the PF discretion to prosecute or not. There is no rule of law that a criminal offence must be prosecuted.

16. No-one can oblige the Lord Advocate to prosecute and no-one except the Lord Advocate can oblige the PF to prosecute.

17. Before acting upon a report, the PF must first be satisfied that the circumstances disclose a crime known to the law of Scotland.

18. The PF must then consider whether the evidence is sufficient, admissible and reliable. If not, the PF will take no action. Otherwise, the PF will go on to decide the best course to take in the public interest.

19. PF enjoy a considerable degree of autonomy with regard to their decisions in individual cases. However, significant matters of policy are determined by the Lord Advocate and appropriate guidance is issued from Crown Office.

20. Even if there is sufficient evidence of a crime, the PF may decide that the case is so trivial that it does not merit any action on their part. The PF is not obliged to explain their decision to the reporting agency.

21. A substantial lapse of time since the commission of the offence or various mitigating factors may result in no proceedings being taken.

# Prosecution File Preparation

## 00 Introduction

### Introduction

This section gives information about procedures that Counter Fraud and Compliance Service (CFCD) investigators, Digital Case Management Unit (DCMU) in England and Wales, Team Leaders (TLs) and Higher Investigations Leaders (HILs) follow when:

- recommending a case for prosecution
- authorising proceedings
- preparing prosecution files for the prosecuting authority, which for the purpose of this section of the manual will be the Crown Prosecution Service (CPS) in England and Wales (E&W) and the Procurator Fiscal (PF) in Scotland.

File preparation / National File Standard (NFS) can only be considered when a:

- Decision Maker's (DM's) decision has been made and a recoverable overpayment has been calculated or
- a clear **attempt** to defraud is shown by a dishonest or false statement.

Documentary evidence obtained throughout the course of an investigation must be scanned upon receipt and saved in the team shared folder, Electronic Evidence, under the investigator's name, followed by the claimant's name.

Naming conventions must be applied to saved documents. See: [NFS Naming Conventions](#).

### Criteria



File preparation, using the National File Standard (NFS), must be undertaken on all cases authorised for prosecution.

In addition, cases where an Administrative Penalty (Ad-Pen) has been refused, or where the claimant failed to attend the offer of an Ad-Pen interview, can also be considered.

Under the Welsh Language Act 1993, the defendant has the right to request any proceedings within Wales to be conducted in Welsh or English.

Forms referred to in this guidance, therefore, have been made available in Welsh translated versions where deemed appropriate.

## 01 Recommending proceedings

### Appropriate charge

Upon submission of the case, the prosecuting authority will review the evidence in accordance with The Code of Crown Prosecutors and the Specialist Fraud Division legal guidance.

If the evidential test is passed, the prosecutor will then select the appropriate charges.

As best practice, and for the majority of cases when deciding on what is the appropriate legislation the case should be considered under, the investigator and Team Leader or Higher Investigations Leader should firstly consider submitting the file under S111A or Fraud Act 2006 offences.

To use either of these offences, dishonesty must have been covered either in the Interview Under Caution (IUC) or you have evidence of dishonest action in the completion of documents from the outset of the claim or during the period of the offence.

If S111A or Fraud Act 2006 legislation is considered not to be appropriate, consider the case under S112. Offences under S112 are subject to time-bar, see [Offences subject to time-bar](#). If the case involves Tax Credits, the file must be submitted under [S35 of the Tax Credits Act 2002 \(link is external\)](#).

The Crown Prosecution Service (CPS) will select charges which:

- reflect the seriousness and extent of the offending supported by evidence
- give the court adequate powers to sentence and impose post-conviction orders and
- enable the case to be presented in a clear and simple way

In Scotland, a [PF13 \(link is external\)](#) must be completed.

The submission minute or [PF13 \(link is external\)](#) must include the following where appropriate:

- important points not covered in the investigation
- an explanation of departures from procedural instructions
- the reason for any delays
- points the claimant has questioned
- facts that contradict the explanation put forward by the claimant
- circumstances that might cause criticism of the Department for Work and Pensions or Local Authority (DWP or LA), or its treatment of the claimant
- details of any repayments made by the claimant
- advice given by solicitors on the case
- the grounds for an application for a Secretary of State's Certificate/Lord Advocate's certificate if seeking to prosecute an otherwise time-barred offence or offences
- details of any health problems the claimant may have
- details of circumstances where the claimant was offered the attendance of an appropriate adult but refused, including reasons why the offer was made
- where an appropriate adult has been engaged, his or her name, For Scotland only see [Guidance on Appropriate Adults Services in Scotland \(link is external\)](#)
- in Scotland, compensation cannot be requested although the Sheriff may award it

- whether submission to the Financial Investigation Unit (FIU) has been considered, the [Financial Investigation](#) should run concurrently
- details of any documents that the witnesses need to produce
- details of any witnesses that are subject to a [witness anonymity order](#)
- in Scotland, the grounds for seeking prosecution under Common Law
- where UK Visas and Immigration have indicated an interest in the outcome of the prosecution, record details of the suspect's nationality, including country of origin where known

This list is not exhaustive and should include anything the investigator considers relevant which may affect the case.

This summary must be completed on Fraud Referral And Intervention Management System (FRAIMS).

## Approval for prosecution

### Delays

All delays in the investigative process must be listed in chronological order with reasons: this includes delays in obtaining intelligence from information providers or overpayment decisions.

Inactivity on a file for an extended period, without a reasonable explanation could result in prosecuting authority lawyers rejecting the case for prosecution. A specific and justifiable BF reason is critical in supporting your submission.

Request case conference

Once the investigator is satisfied that the case is suitable for prosecution, they should refer the case to their Team Leader (TL) or Higher Investigations Leader (HIL) requesting a case conference, in order to obtain initial approval. This action must be recorded on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS guidance – Fraud penalty – Investigators actions](#).

Prior to undertaking file preparation, the Investigator must submit a summary to the TL or HIL on FRAIMS. This should include details of why they consider the case suitable for prosecution:

- include a brief benefit history
- include a brief summary of all the evidence obtained
- include overpayment dates and amounts
- provide confirmation that the Interview Under Caution (IUC) transcript is attached on FRAIMS
- include any other mitigating circumstances considered relevant to the case for example, health or social issues

This list is not exhaustive.

The investigator and TL or HIL must consider the following points as part of a case conference:

- what is the offence to be proved?
- what evidence is available?
- what denials or partial denials at IUC need re-butting?
- does the evidence prove the offence?
- what pieces of evidence are 'Key' or 'Non Key'?
- what legislation is being recommended?
- is the case a Guilty Anticipated Plea (GAP) or a Not Guilty Anticipated Plea (NGAP) case?
- when the above points have been agreed the TL or HIL must record the outcome of the discussion and the recommendation to prosecute on the FRAIMS case

The [Case Conference Aide Memoire \(link is external\)](#) can be used to record details of LT54 documents used as evidence and overpayment amounts and dates, as detailed on the

[ORG7 CP/No CP WA \(link is external\)](#) / [ORG7W CP/No CP WA \(link is external\)](#) / [ORG7 Fraud WA \(link is external\)](#) / [ORG7W Fraud WA \(link is external\)](#).

## **Team Leader or Higher Investigations Leader actions**

A decision to prosecute an individual is a serious matter. Even in a minor case, a prosecution has serious implications for all involved. The Team Leader (TL) or Higher Investigations Leader (HIL) must ensure recommendations to prosecute are fair and consistent. See [Points to Prove \(link is external\)](#).

The TL or HIL must thoroughly check the case and the evidence file for quality, ensuring that all the 'Key' evidence is available taking into consideration the investigator's summary and that all appropriate disclosure has been considered including pre-Investigation Under Caution (IUC). The TL or HIL must ensure that witness availability has been clarified and recorded.

The TL or HIL must ensure that there is sufficient 'Key' evidence being used and that this evidence proves the offence.

Other fraud penalty options such as an Administrative Penalty (Ad-Pen) must also be considered before recommending prosecution. Unless Tax Credits offences are included. Note that Tax Credit offences have no Administrative Penalty legislation.

The detail of the action taken by the TL or HIL in considering the appropriate fraud penalty, including the recommendation for prosecution must be recorded on FRAIMS, see [FRAIMS guidance – Fraud penalty – Manager's actions](#).

The TL or HIL must examine all the available evidence in each case with strict impartiality and consider the points made by the investigator in their submission.

The TL or HIL must also check:

- that any social factors, health problems and/or disabilities suffered by the suspect are included
- that an appropriate adult was present at the interview, if there are indications that the suspect is identified as an [individual with complex needs and/or requiring additional support \(link is external\)](#). This should be recorded on the interview activity on FRAIMS, see [FRAIMS guidance - Claimant attends the interview](#)
- if the claimant has refused to accept the offer of an Ad-Pen or failed to attend appointments in respect of a fraud penalty, details of the failed appointments must be noted. These will be recorded as activities on FRAIMS, see [FRAIMS guidance - Claimant failed to attend the interview](#)
- that mitigating factors against prosecution do not apply or are not considered strong enough to deter prosecution
- any other relevant public interest factors are detailed, so that the Crown Prosecution Service (CPS) have all available information when applying the test of fairness

When the alleged offender has lodged an appeal against the overpayment, take action as outlined in [Appeal Received](#).

The Team Leader (TL) or Higher Investigations Leader (HIL) may decide that the case has met the criteria for prosecution, but an Ad-Pen would be a more appropriate fraud penalty.

The TL or HIL must note in FRAIMS the details of their decision and file preparation action would then cease. [FRAIMS guidance - Fraud penalty – Manager's actions](#).

The TL or HIL must consult Crown Prosecution Service (CPS) or Central Prosecution Team (CPT) in Scotland at an early stage if legal advice is required.

Where such advice is sought the details must be recorded on FRAIMS, see [FRAIMS guidance – Obtaining Legal Advice](#).

## **Prosecution recommended**

The Team Leader (TL) or Higher Investigations Leader (HIL) will, after examining the electronic evidence including transcripts of interviews, be responsible for recording the outcome on FRAIMS by completing the Outcome and Date of Outcome fields on FRAIMS, see [FRAIMS guidance – Recording the Case Outcome](#).

When the alleged offender has lodged an appeal against the overpayment, take action as outlined in [Informing the Prosecution Authority of an Appeal](#).

In Scotland the TL or HIL will recommend submission to the Procurator Fiscal (PF).

Once the TL or HIL recommends the case for prosecution, they must return the case and update the FRAIMS advising the investigator of their decision.

Upon receipt of the FRAIMS activity approving the recommendation for prosecution, the investigator must record the issue of CI17, update the FRAIMS Case Stage and associate colleagues as appropriate.

## Completion of MG5

In all cases, information gathered must be fully detailed by the investigator on the [MG5 \(link is external\)](#).

Relevant information includes anything that appears to an investigator to have some bearing on any offence under investigation, or on any person being investigated, or on the surrounding circumstances.

This would be information that:

- will prove the offence - 'Key' evidence
- may not prove the case on its own, but may still assist the prosecution's case – 'Non Key' evidence

## Prosecution not recommended

If the Team Leader (TL) or Higher Investigations Leader (HIL) decides that the case is not suitable for prosecution they should update the case on FRAIMS and the evidence file should be returned to the investigator.

Their reasons must be documented on FRAIMS, see [FRAIMS guidance - Fraud penalty – Manager's action](#).

If closure is recommended, the investigator should take the following action:

- arrange issue of the [CI7 \(link is external\)](#)/[CI7W \(link is external\)](#) to the claimant, see [FRAIMS guidance – Fraud penalty - Manager rejects the request](#)
  - notify Debt Management that the claimant is not to be prosecuted, see [FRAIMS guidance – Notifying Debt Management](#)
  - notify Fraud Investigation Unit of end of investigation/legal action
- if the case involves Tax Credits, the investigator must issue the 'DWP Spontaneous Disclosure to HMRC Template ([link is external](#))' by email to:  
[workflowmailbox.bcjointworking@hmrc.gsi.gov.uk](mailto:workflowmailbox.bcjointworking@hmrc.gsi.gov.uk) ([link sends e-mail](#)) **(40 \* Personal data (absolute exemption in relation only to information that is the personal data of the applicant for HMRC to take any civil action as appropriate**

- close the case on FRAIMS, see [FRAIMS guidance - Closing the Case](#)

If the recommendation is to refer the case to the police, do not send a [CI7 \(link is external\)](#) to the claimant if the police accept the case.

## Action following recommendation to prepare file for prosecution

Once the Team Leader (TL) or Higher Investigations Leader (HIL) has made their decision and updated FRAIMS, the investigator must take the following action:

- you must issue the appropriate letter to inform the alleged offender or accused of the recommendation to prosecute:
- o [CI17 \(link is external\)](#) / [CI17S](#) / [CI17W \(link is external\)](#) (Interview Under Caution (IUC) undertaken)
- o [CI17A \(link is external\)](#) / [CI17AS \(link is external\)](#) / [CI17AW \(link is external\)](#) (Failure to attend the IUC cases)

**Note:** Failure to issue [CI17 \(link is external\)](#) / [CI17S](#) / [CI17W \(link is external\)](#) can mean:

- You fail to inform in writing the Department's intention to prosecute, therefore breaking the law

- You fail to comply with the legal requirement to keep the claimant informed in writing
- You delay or fail to allow the claimant the opportunity to consult and obtain legal guidance
- Avoidable costly legal challenge
- Potential costly failure of prosecution on legal grounds
- Reputational damage to Department
- You must ensure all activities and attachments on the FRAIMS case are restricted
- update the 'Case Stage' to 'Prosecution Preparation'
- prepare electronic MG documents for case submission
- ensure that all necessary witness statements have been obtained and are on the [MG11 \(link is external\)](#) / [PF11S \(link is external\)](#) (Parts 1 and 2)
- exhibit labels [EL1 \(link is external\)](#) are signed, E&W only, these are held by the investigator until such time as a file upgrade request made
- ensure all external evidence is scanned appropriately

## National File Standard - File preparation completed

When all documents have been completed and appropriate witness statements obtained, the Investigator should undertake the following actions:

- complete FRAIMS activity to the Team Leader (TL) or Higher Investigations Leader (HIL), include a brief summary of the case, see [Recording the Prosecution File preparation](#)
- construct and send an e-mail to the TL or HIL containing all appropriate documentation required. The e-mail header must be in the required format, see [Key notification subject headings](#)

If the e-mail exceeds the five thousand Kilobyte, 7,000 Kb, limit, the investigator should split the documents over a minimum number of e-mails.

The subject line should refer to the number of e-mails required to submit the case – for example: '1 of 2/3/4'.

## Submission to Digital Case Management Unit in England and Wales

When the National File Standard (NFS) case is referred to the Team Leader (TL) or Higher Investigations Leader (HIL), they will identify this in one of two ways:

- e-mail received from the investigator with all documentation attached
- FRAIMS activity from the investigator

On receipt of case, the TL or HIL should clear the approval activity timeously as follows using the [Local Service Team Leader or Higher Investigations Leader checklist \(link is external\)](#):

- fully vet case, including full check of the [MG5 \(link is external\)](#) and [MG11 \(link is external\)](#)/MG11 (link is external) for hand written statements and [MG11 \(link is external\)](#)/MG11 (link is external) for typed statements
- ensure all evidence held, as stated on MG5 and MG11, is contained in the e-mail
- check [MG6 \(link is external\)](#) for correct completion having been attached to the e-mail
- activities are set to 'Done'

After verifying all information is held and recorded on MG5, the TL or HIL should fully check the MG11 to ensure that it is robust and fully covers all aspects of the investigation.

When this has been completed the TL or HIL will authorise the e-mail and FRAIMS activity.

The TL or HIL should update FRAIMS as follows:

- change Outcome to 'Prosecution'
- change Outcome Result as appropriate, do not input a Date of Outcome
- set activity to CPT

See [FRAIMS guidance - Sending the file to the Central Prosecution Team or Digital Case Management Unit](#)

Only when all of the above has been carried out should the TL or HIL forward the e-mail to the appropriate Digital Case Management Unit (DCMU) New Case Registration inbox for the relevant area and assign an activity to them in FRAIMS.

DCMU	e-mail address
DCMU CFCD Central England	<b>[Redacted]</b>
DCMU CFCD London & Home Counties	<b>[Redacted]</b>
DCMU CFCD North East	<b>[Redacted]</b>
DCMU CFCD North West	<b>[Redacted]</b>
DCMU CFCD Southern England	<b>[Redacted]</b>
DCMU CFCD Wales	<b>[Redacted]</b>
DCMU CFCD CCIIS	<b>[Redacted]</b>
DCMU CFCD Sensitive Cases	<b>[Redacted]</b>

## **Police remand or detention cases**

### **England and Wales**

In England and Wales (E&W), in police arrest cases, where it is impractical to obtain the written authority from the Team Leader (TL) or Higher Investigations Leader (HIL) to submit the case to the Crown Prosecution Service (CPS), the investigator must discuss the submission with the TL or HIL post Interview Under Caution (IUC) and pre-charge to ensure consistency of submissions.

These submissions are appropriate when the person is being remanded into custody to appear before the court the following day. This is the only acceptable deviation from the practice of the TL or HIL giving written authority to submit the case for prosecution.



The written authority for the subsequent submission of the full prosecution file to the CPS must be obtained at the appropriate time. This authority must be completed on FRAIMS, see [FRAIMS guidance - Recording the Prosecution File preparation](#).

The minimum requirements for the contents of an early court prosecution file in these cases is as follows:

- copy of custody record MG4 or [CI11 \(link is external\)](#) copy of police charge sheets or allegations
- [MG5 \(link is external\)](#) case summary, handwritten, including admissions made at IUC
- [MG7 \(link is external\)](#) remand application, if applicable
- MG8 breach of bail conditions, where applicable
- [MG11 \(link is external\)](#)/[MG11 \(link is external\)](#) for hand written statements and [MG11 \(link is external\)](#)/[MG11 \(link is external\)](#) for typed statements, key witness statements from police officers covering the arrest, interview under caution and charge processes

The above can form part of the advanced disclosure to defence solicitors.

## **Witness statements from serving Police Officers**

CPS regard that a serving police officer would not have anything disclosed on a PNC check which would be an issue in the probity of the case. If the Police Officer declines to give their full details such as date of birth, then the Investigations Officer must add a note on the MG6 and accept the witness statement given.

If available, the following information can also be included:

- Phoenix print of all previous convictions for the defendants
- Phoenix print of all previous cautions, reprimands or warnings for the defendants
- MG4A police conditional bail form, obtained from the custody suite, if applicable
- MG4C surety or security forms for police conditional bail, obtained from the custody suite, if applicable
- [MG6 \(link is external\)](#) restricted confidential case file information form
- MG11 other witness statements that have been taken
- a copy of documentary exhibits/photographs
- transcript of the recorded interview, if available
- [MG18 \(link is external\)](#) Taken Into Consideration (TIC) form

## **Scotland**

Before the police can detain someone under the Criminal Procedure (Scotland) Act (CPSA) 1995 they will require as much evidence as possible to show that a crime has been committed.

Therefore, before considering an approach to the police it is essential that witness statements and documents to be used as productions must have been obtained.

Once the police have detained someone under Section 14 of CPSA they can be detained for questioning for a maximum of six hours after which the suspected person must be arrested and charged or released.

If the suspect is charged they will either be released to appear in court at a later date or arrested and remain in custody. If arrested they must appear in court at the next sitting which will usually be the following day.

In police arrest cases, where it is impractical to obtain the written authority from the Team Leader (TL) or Higher Investigations Leader (HIL) to submit the case for prosecution, the investigator must discuss the submission with the TL or HIL, post IUC and pre-charge to ensure consistency of submissions.

These submissions are when the person is being remanded into custody to appear before the court the following day, or the following Monday if the suspect is arrested on a Friday.

For Department for Work and Pensions (DWP) investigations, when the suspect has been remanded in custody a report explaining the details of the offence must be sent electronically to the Procurator Fiscal (PF).

Due to the fact that the hearing is likely to be the following day, the investigator will draft the report and ask the police to send it.

If the investigator sends it directly using the Specialist Reporting Agency (SRA) website the report would not be received by the PF in time for the hearing

## Disclosure in England and Wales

Streamline Digital Certificate (SDC) forms 1, 2 and 3 have been developed for use alongside the MG5 in Guilty Anticipated Plea (GAP) SDC1, and Not Guilty Anticipated Plea (NGAP) cases SDC2 or SDC3.

In England and Wales (E&W), destined for Magistrates Court, the Disclosure Officer's Schedules and Report, [MG6C \(link is external\)](#) and [MG6E \(link is external\)](#), are not required in GAP cases. An [MG6D \(link is external\)](#) may be required for sensitive items.

In NGAP cases destined for Magistrates Court where there are disclosure issues the [SDC3 \(link is external\)](#) will be required along with the [MG5 \(link is external\)](#), and in cases where there are no disclosure issues the [SDC2 \(link is external\)](#) will be used. Only one SDC form is required per case.

For further information about the completion of these schedules, see [Completing the Disclosure Officer's report](#). A single SDC form is required in all cases destined for Magistrates Court. For cases destined for Crown Court, such as over £35,000 or Indictable Offences, the MG series MG6 C, D and E would apply as required. No SDC form is used for Crown Court cases

## Disclosure in Scotland

The Criminal Justice and Licensing (Scotland) Act 2010 came into force for Specialist Reporting Agencies (SRAs) other than the police on 6 June 2011. It was effective for the Police from an earlier date and changes the way disclosure is made to the Crown in Scotland.

A Code of Practice on Disclosure of Information in Criminal Proceedings gives information on what the Crown requirements are in accordance with the Act.

Under Sections 117 to 120 of the Act it is necessary for all information generated during an investigation to be recorded and retained.

This includes information that is regarded as relevant or not relevant and the investigator must review all information obtained throughout the life of the case to decide whether it is relevant or not relevant.

Sections 117 and 118 of the Act require that in solemn cases disclosure schedules must be completed and disclosed to the prosecutor. These schedules list information that is non-sensitive, sensitive and highly sensitive.

For definitions of these see [Completing the Disclosure Officer's report](#).

Sections 119 and 120 make it necessary for the Procurator Fiscal (PF) to be made aware of all information relevant to the case by the SRA in summary cases when a not guilty plea is lodged.

In practice the PF is made aware of all information in all summary cases when the case is first reported.

## Revelation and disclosure

There are six core principals for both revelation and disclosure which form the basis of what must be revealed and disclosed.



## **Core principals of revelation**

Revelation refers to information that is revealed to the PF by Central Prosecution Team (CPT) via the Standard Prosecution Report (SPR).

The Core Principals of Revelation are listed in the Code of Practice as:

- the SRA are obliged to reveal to Crown Office and Procurator Fiscal Service (COPFS) all information that may be relevant to the issue of whether the accused is innocent or guilty
- 'Relevant' means any information that appears to an investigator to have some bearing on the offence, or offences, under investigation or any person being investigated or on the surrounding circumstances, unless it is incapable of having any impact on the case
- this obligation exists in perpetuity. This means that the duty exists for any information that comes to the attention of the SRA even after conviction or after an appeal has been refused
- compliance with the duty requires the SRA to provide COPFS with all witness statements obtained, including statements from defence witnesses
- compliance with the duty also requires the Police to reveal to COPFS the existence of criminal history records, previous convictions and outstanding charges, for all witnesses for whom statements are provided. For SRA cases the COPFS will obtain this information directly from the police. This is because COPFS have a legal obligation to disclose all material convictions and pending cases that relate to all witnesses who are likely to be called to give evidence
- failure to properly and timeously reveal all potentially relevant information to COPFS could lead to a failure to disclose material information to the accused which could result in a miscarriage of justice

## **Core principals of disclosure**

Disclosure refers to information that is disclosed by the PF to the Defence or the Court.

The Core Principals of Disclosure as listed in the Code of Practice are:

- the Crown is obliged to disclose all material information for or against the accused, subject to any public interest considerations. This relates to statements, but it also relates to all information of which the Crown is aware
- 'Material' means information which is likely to be of real importance to any undermining of the Crown case, or to any casting reasonable doubt on it, and of positive assistance to the accused
- this legal duty persists in perpetuity. This means that if information comes to light after someone is convicted which suggests that the conviction is unsafe the Crown must be informed immediately
- compliance with the duty requires the Crown to disclose all statements, as opposed to precognitions, of all witnesses on the Crown and defence lists, including section 67 notices or Witness notices
- compliance with the duty requires the Crown, without having to be requested to do so, to disclose all material previous convictions and outstanding charges for all witnesses on the Crown lists, including section 67 notices
- failure to disclose material information risks a miscarriage of justice. Disclosure carried out properly and timeously ensures that justice is done and prevents unnecessary trials and delay

## **Disclosure to court or defence**

Disclosure to the court or defence is solely the responsibility of the PF

# **02 Preparing the Prosecution File – England and Wales**

## **Key and non-Key evidence**

Following discussions with the Counter Fraud and Compliance Directorate (CFCD) Team Leader (TL) or Higher Investigations Leader (HIL), the investigator must designate the evidence into the following categories ensuring that offence is proven:

- Key evidence – which proves the offence
  - non-key evidence – which corroborates the Key evidence being used
- The investigator must account for all documents used in the LT54 decision or DM1 for Tax Credit (TC) only decisions.

Where documents no longer form part of the prosecution evidence, whether key or non-key, the investigator must advise the Crown Prosecution Service (CPS) and re-classified as unused material.

All material that is neither 'key' nor 'non key' must be considered in line with disclosure obligations and added to a disclosure schedule if relevant.

Record this in the **Notes to Advocate** section on the [MG6 \(link is external\)](#). Investigators and TL or HIL should use the [Case Conference Aide Memoire \(link is external\)](#) to assist the discussions.

Where a person is providing a witness statement which covers both Key and Non Key evidence, it is acceptable to combine this in one MG11.

## Key

Key evidence must cover the whole period of offending, which establishes every element of the offence to be proved, and goes to prove that the suspect committed the offence with the necessary criminal intent, for example:

- EQ1 / EQ1(AP) / [AO10EQ1SE \(link is external\)](#) / [AO10EQ1SEW \(link is external\)](#)
  - evidence uncontested: ([EQ1A provided](#)) = Send EQ1 & EQ1A (as one merged doc) to CPS – exhibited by employer. ([Wage Slips provided](#)) = EQ1 Only (EQ1 exhibited by employer)
  - evidence Contested: ([EQ1A provided](#)) = EQ1 & EQ1A (as one merged doc) to CPS – exhibited by employer. ([Wage Slips provided](#)) = EQ1 & Schedule of Earnings required
- occupational pension details
- surveillance or summary
- financial agreements
- marriage certificates
- rebuttal evidence, if challenged, denial or partial denial, made should always be Key
- Interview Under Caution (IUC), exhibited by the investigator
- Schedule of Assets (SOA), exhibited by the investigator
- Schedule of Payments (SOP), exhibited by the investigator
- Schedule of Earnings (SOE), exhibited by investigator
- False declaration documents - example: **Income Support Claim & Review forms, ESA/HB/UC Claim forms etc**
- Change of Circumstances forms – example: **INF4 docs (JSA/IS/PC), ESA40, Pension Credit INF4(PC) (full document as PDF in all cases).**
- Claim forms (or phone transcripts of claims) where these are either false statements or they are felt to add to “guilty knowledge. (all cases).

Change of circumstances information leaflets and Uprating Letters can be shown to support establishing knowledge. Ensure the correct version that the customer would have received during claim and or offence period is exhibited as Key. In the first instance check OPSTRAT screen 570, to identify the date/s the ‘Notes sheets’ for the particular benefit were 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 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)

[Redacted]

The IUC can also often be about any completed review forms and / or INF4 letters (or similar leaflets) that are sent to the suspect during the life of their benefit claim(s), advising them about changes to report.

So, it makes sense to exhibit some or all of these items as “key” evidence (up front as part of the first NFS submission), even in a “failure to report a change in circumstances” case.

It is always open to the reviewing lawyer to request the complete document if they want it. Whilst a case should not fail the pre-registration check on the lack of the whole form, investigators must understand that the decision of the reviewing lawyer is final.

This list is not exhaustive.

**Note:** All Key evidence requires a Section 9 Witness Statement [MG11 \(link is external\)/MG11. \(link is external\)](#) Access the Points to Prove guide.

**Note:** (Non-key section 9 statements must be readily available or held in preparation) For further information see [File Preparation](#).

### **Non-key**

Witnesses and evidence that supports the case or simply corroborates the evidence provided by key witnesses, examples of which are:

[Redacted]

The second officer at an IUC will be a non-key witness unless exceptional issues arise.

## **Decision making – Key or non-key**

When deciding on what evidence should be classed as key, the investigator, in consultation their Team Leader (TL) or Higher Investigations Leader (HIL), must review what was admitted or denied at the Interview Under Caution (IUC) and adjust the content accordingly ensuring that the key evidence used proves the offence.

### **Key or non-key – Anticipated guilty plea**

Where the defendant has fully admitted the offence and review claim forms/up rating letters have been completed/issued during the period of offence, the investigator must record the fact within their summary in the [MG5 \(link is external\)](#) Section 1, Paragraph 4 and for example:

- **Defendant completed an Income Support A2 Review claim form, dated 11/11/2011 – Defendant failed to declare on page # .....**
- **The defendant received an award notification/annual uprating letter(s) dated 11/11/2011, which advises the defendant that they must report any changes in their circumstances to the department.**

This provides the reviewing lawyer with confirmation or evidence that the defendant had knowledge of what they are required to declare, that they acted dishonestly, allowing the case to be considered for prosecution under S111A legislation without exhibiting unnecessary additional documentation.

### **Key or non-key – Anticipated not guilty plea**

Where the defendant has denied or partially denied the offence at Interview Under Caution (IUC), the content supplied in the initial submission should be revised accordingly, proving:

- knowledge
- rebutting denials
- external evidence
- review forms
- up-rating letters.

If denied or partially denied in the IUC, explain how the evidence disproves the defendants explanation of events, including any lack of knowledge, in your summary in the MG5 Section 1, Paragraph 4.

Ensure you exhibit evidence that challenges or disproves any claimant denial or partial denials as key for example if the claimant denies knowledge or acting dishonestly and you have review claim forms or other documents, such as: uprating notifications, INF4 issued or completed during the period of offence, you must exhibit a small selection of them, relevant pages only, in your initial submission

Exhibits and MG forms must all be electronic versions of the documents, either having been scanned in to the system as a Portable Document Format (PDF) or completed electronically, for example as a Microsoft document such as Word, Excel and PowerPoint.

Investigators will obtain various pieces of documentary evidence during the course of their investigation. Retain the evidence securely by the investigator on the working file and/or shared folder for scanned docs, in accordance with the Criminal Procedures and Investigation Act (CPIA) 1996.

There is no requirement to submit non-key evidence to the Digital Case Management Unit (DCMU).

If the Crown Prosecution Service (CPS) requires any of these documents, the investigator must supply these as requested upon receipt of an [MG3 \(link is external\)](#) action plan.

## Documents required in National File Standard File preparation

**Note:** Where the overpayment is £35,000 or more the preparation will always be for a Crown Court Hearing.

## URN (Unique Reference Number)

All cases referred to DCMU/CPS will include a URN (unique Reference Number) in the Email title. This URN need not be input into each separate form submitted (MG series).

The 'code' will consist of:

- CPS business partner = Expressed as 77
  - Primary Offence = Expressed as two alpha code
  - TEAM = Expressed as a three number code
  - Case Reference = Expressed as two unique numbers
  - Year of issuer = Two number designation for year.
- The excel tool generates the complete number for the Team leader.

## First Magistrates Court Hearing

The following documents are required on all file preparation, first hearing cases, prepared under National File Standard (NFS):

- [CD1](#) - Case Details Form. 1st Doc in Email and attached to FRAIMs
- [MG5 \(link is external\)](#) – Investigator Case Summary Report
- [MG6 \(link is external\)](#) – Detailing any Forensic, Surveillance, Disclosure, Public Interest, Financial Investigation Unit (FIU) interest: Notes to Advocate
- [MG9 \(link is external\)](#) – Witness List - Key and Non-Key
- [MG11 \(link is external\)](#)– Investigator Witness Statement Part 1 - Plus any exhibit of KEY evidence
- [MG11 \(link is external\)](#)– Key Evidence Witness/es Statement (S) Part 1 - Plus exhibits (DM MG11 readied but not sent unless requested), [evidence](#)
- [MG11 Part 2 \(link is external\)](#) – Key and Non-Key Witness/es - Must be a sent as a separate document to part 1. Witness availability dates on MG11 part 2 are no longer required. Ensure DOB and if applicable Maiden Name are captured. For DCMU ([Bank & Financial](#))

- Interview Under Caution (**IUC**) transcripts exhibited by Investigator in the format WORD Doc
- [NPA01](#) - Attach to both FRAIMS and e-mail
- [SDC1 \(link is external\)](#) – **GAP case** - Streamline Disclosure Certificate. - Where no material that falls to be disclosed under the common law duty to disclose. Where there is such material it must be brought to the attention of Crown Prosecution Service (CPS) and a SDC1 would not be appropriate. The Email to DCMU must be annotated: "SDC1 not included" then attach the item(s) that may undermine the case (sight only, not exhibited). MG6 section 4 completed accordingly
- SDC 2/3 **NGAP case** – [SDC2 \(link is external\)](#) where the Investigator believes that there is nothing which is subject to disclosure OR [SDC3 \(link is external\)](#) where the Investigator believes some material needs to be disclosed (ALL unused material listed) Not required for Crown Court. Ensure submission includes copies of any items marked as 'to be disclosed'. [Appropriate Disclosure Instructions](#). (Disclosure items attached as standalone docs)

[MG10 \(link is external\)](#) - Witness non-availability - Key and Non-Key (Required pre-trial ASN when requested) (to be sent to [DCMU Central Admin inbox \(link sends e-mail\)](#) and not DCMU New Case Reg).

### **Public domain evidence**

Evidence which is available in the public domain such as Birth and Marriage certificates are admissible within the investigators MG11 statement, provided that the process they have followed in order to obtain them is clearly set out.

Only if the defence challenges their validity would a statement be required from such as the General Register Office (GRO).

### **If applicable include the following:**

- [MG6D \(link is external\)](#) – Sensitive Material
- [MG11 \(link is external\)](#) – Key Witness Statements by the LA/HMRC
- [MG11 \(link is external\)](#) – Key Evidence Witness Statements by the LA/HMRC Decision Maker / Other. (also include as part of e-mail, only any overpayment decision and overpayment letter)
- [MG11 \(link is external\)](#) – Continuity Statements (Such as IGO)
- [MG2 \(link is external\)](#) - Special Measures Assessment (vulnerable or intimidated witness)
- [MG6B \(link is external\)](#) - Disciplinary record for DWP staff only (To be sent directly to CPS as hard copy once stage changes from "CPT" to "Legal Office" on FRAIMS. Via courier, noted for linking purposes with Surname, Forename, D.O.B. of defendant) (**NGAP/CCC**)
- [MG12 \(link is external\)](#) - Exhibit list, as required. (**NGAP/CCC**)
- [MG] SFR - Forensic Submissions/results series of forms (**NGAP/CCC**).

### **Other key evidence**

#### **Surveillance**

Investigator notes on Email that DVD in transit noting TNT number. Note the URN and FRAIMS number on the surveillance disc. DVD Key exhibit MG11 sent via TNT. RIP forms as standalone's in NFS Email ([RIP 1 \(link is external\)](#), [RIP 3 \(link is external\)](#), and [RIP 4 \(link is external\)](#)); KMB 4, KMB 5, and KMB 6). Surveillance Summary Log / covert vehicle summary log, Continuity log – exhibits. Note Email that DVD in transit.

### **Documents to prove knowledge of the rules for claiming benefit**

#### **False declaration documents**

For example

[Redacted]

[Chronology](#) and [Secretary of State Certificate \(link is external\)](#) (Time Bar 12 months since IUC)

### **Schedules**

These must be completed from original information supplied by the provider and exhibited by investigator:

[Schedule of Assets \(5 accounts\) \(link is external\)](#)  
[accounts\) \(link is external\)](#)

[Schedule of Assets \(10](#)

[Schedule of Assets \(15 accounts\) \(link is external\)](#)  
(link is external)

[Schedule of Earnings \(Monthly\)](#)

[Schedule of Earnings \(Weekly\) \(link is external\)](#)  
external).

[Schedule of Payments \(link is](#)

Reference see: [Schedules](#).

Schedules of Payments/Assets as KEY with a named individual from the **Bank/Institution** as NON-KEY but with completed MG11 obtained and held.

### **Included as part of e-mail only**

LT54 (WORD) and ORG7 (PDF) - both documents should be attached to the e-mail.

Tax Credits, LT54 equivalent is document DM1 and Tax Credit decision and overpayment notice letter.

Disability Living Allowance (DLA), LT54 equivalent is document DBD810. The full written decision has to be included.

Personal Independence Payment (PIP), LT54 equivalent is a system PIP.7013. The full written decision must be included.

Carer's Allowance (CA), LT54 equivalent is document LT54 or Record of Decision ROD which must be included with the full written decision.

Local Authority, equivalents overpayment letter/notice in each case.

Universal Credit – currently UC375. The full written decision must be included.

## **Post First Magistrates Court Hearing**

Additional documentation may also be required, however these will be determined by the nature of the challenge as advised at the case management stage of the initial hearing by Crown Prosecution Service (CPS).

## **Crown Court Hearing**

Completion as per Magistrate Plea for ALL cases equal to or over £35,000 with:

- [MG10 \(link is external\)](#)– Revised / updated witness availability, including non-Key Witnesses. Update Bank/Institution previously on schedule with statement and availability. Include witness availability for 6 months in advance of next hearing date. (Required pre-trial ASN when requested)
- [MG11 \(link is external\)](#) - All other statements (including corroborative, continuity etc.) and material identified on a MG3/3A action plan and not yet provided
- [MG6C \(link is external\)](#) - Schedule of non-sensitive unused material
- [MG6D \(link is external\)](#) - Schedule of sensitive material
- [MG6E \(link is external\)](#) - Disclosure Officer's report. (Disclosure items attached as standalone docs)



No streamline disclosure certificate (SDC) form is required for Crown Court cases.

[Exhibit Labels](#) / [EL1](#) (link is external) if requested via CPS by Counsel for Jury Bundle preparation.

### **Exceptional items Led by other agencies if cases link**

These documents are only required where the case links with another agency, and are the responsibility of them to present. The details given here are for awareness only.

### **CPS Led**

- **MG16** Bad Character/Dangerous Offender (Pre Charge).

### **Police led**

- **Bail considerations and actions**
- **MG4** Charge Sheet
- **MG4A/B/C** - Bail Conditional/Vary/Security/Surety
- **MG7** Remand Application /
- Previous convictions (GAP) and also for Key prosecution witnesses (NGAP)
- **MG8** Breach of Bail .

### **FIU Led**

- **MG19** – Compensation details
- **MG17** – Proceeds of Crime review.

## **Schedules**

### **Schedule of Earnings – Working in Receipt Cases**

Action to take when:

- EQ1 or EQ1A insert received - admitted or not admitted in Interview Under Caution (IUC) (Redact all telephone numbers, bank account numbers, as these are of no evidential value. CPS advice is that we must only be serving personal data where it is of evidential value.)
    - submit EQ1 and EQ1A as one merged document, where possible, to Crown Prosecution Service (CPS)
  - EQ1A insert not completed – Wage slips received in place of EQ1A:
    - admitted in IUC - send EQ1 only to CPS (a Schedule of Earnings based on wage slips may still be supplied if the investigator considers it valid to fully illustrate the circumstance)
    - not admitted in IUC - only when the work/wages are not admitted or agreed, and the employer has provided wage slips instead of inserts, submit a Schedule of Earnings based on the wage information supplied on the wage slips to CPS
    - EQ1 to be exhibited by employer, schedule is exhibited by the investigator
- Schedule of Earnings completed with appropriate lines and relevant dates and are available as:

- [Weekly Schedule of Earnings](#) (link is external)
- [Monthly Schedule of Earnings](#) (link is external)

The weekly schedule should be used for all non-monthly pay cycles, for example:

- weekly
- fortnightly
- 4 weekly

### **Submission to Decision Making Unit**

Action to take when:

- EQ1 or EQ1A insert completed by employer – Admitted and Not Admitted at IUC, as one merged document where possible (for all EQ1s Redact mobile numbers for employer)

- submit EQ1 and EQ1A to Decision Making Unit (DMU)
- EQ1A insert not completed – Wage slips received - Admitted at IUC
- send EQ1 and wage slips to DMU
- EQ1A insert not completed – Wage slips received - Not admitted at IUC
- send EQ1 and complete Schedule of Earnings to DMU

When making the submission to the Decision Making Unit, ensure that the [REF2 \(link is external\)](#) includes details of any Statutory Sick Pay (SSP), Statutory Maternity Pay (SMP) and any deductions other than National Insurance (NI) and Tax.

## Schedule of Payments

The [Schedule of Payments \(link is external\)](#) has one tab available per spread-sheet. Investigators should continue to record appropriate financial interactions, between parties, where required, in order to prove the offence, exhibited by the Investigator. Investigators should note that you can only record transactions from two accounts, onto one spread-sheet, exhibited by the Investigator. This allows Crown Prosecution Service (CPS) to view their digital evidence file correctly when presenting the case in Court.

Instructions on how to complete the schedule and how to hide unused lines is available by selecting **Instructions** at the bottom of the **Schedule of Payment** document.

## Schedule of Assets

Where bank statements have been obtained during the course of the investigation, the investigator should complete the appropriate Schedule of Assets before submitting the case for a benefit decision and subsequently for prosecution to Crown Prosecution Service (CPS):

- [Schedule of Assets \(5 Accounts\) \(link is external\)](#)
- [Schedule of Assets \(10 Accounts\) \(link is external\)](#)
- [Schedule of Assets \(15 Accounts\) \(link is external\)](#)

The schedule should replicate the entries on the bank statements for the period of offences.

Where there is a minus figure recorded, for example, the customer has gone into a deficit on that account the investigator should input zeros (£0.00).

## Scanning information

Case evidence needs to be obtained to prove the offence. This evidence must be documented and held in the evidence folder and electronic shared folder having been scanned into the system as a Portable Document Format (PDF) file.

Instructions on how to scan documents are found in the [Sustainable Print Service Guidance \(link is external\)](#). Select the copier or scanner relevant to your location for the appropriate desk aid.

Documents must be loaded into the scanner and scanned in either portrait or landscape dependent on the document. Where documents have portrait and landscape pages, each page scanned to the correct orientation. Scan each evidential document required separately.

Any series of documents required by CPS as key evidence are grouped together in one PDF.

Exhibits and MG forms must all be electronic versions of the documents, either having been scanned in to the system as a PDF or completed electronically, for example as a microsoft document, such as:

- Word
- Excel
- PowerPoint

Various pieces of documentary evidence are obtained during the course of their investigation.

This evidence is retained securely by the investigator on the working file and/or shared folder for scanned documents, in accordance with the Criminal Procedures and Investigation Act (CPIA) 1996.



There is no requirement to submit non-key evidence to the Digital Case Management Unit (DCMU). If the CPS requires any of these documents, the investigator should supply these as requested upon receipt of an [MG3 \(link is external\)](#) Action Plan.

## Streamline Disclosure Certificate 1, 2 and 3 completion

The [SDC1 \(link is external\)](#) is required in all Guilty Anticipated Plea (GAP) cases to certificate **‘In accordance with Common Law I certify to the best of my knowledge and belief that there is no relevant unused material that might reasonably assist the defence with the early preparation of their case or at a bail hearing’**.

Where disclosure issues apply follow: [Disclosure Officer actions](#).

The [SDC2 \(link is external\)](#) lists unused material where there is nothing that falls for disclosure in Magistrates Court Not Guilty Anticipated Plea (NGAP) cases, unless the SDC3 applies.

The [SDC3 \(link is external\)](#) lists all unused material (both disclosable and non-disclosable) where there is material that may undermine the case or assist the defence. Such disclosable material is noted on the [SDC3 \(link is external\)](#) within the Disclosure Officer’s Certification statement as follows:

**‘and that to the best of my knowledge and belief items [LISTED HERE]...**

**in the schedule might reasonably undermine the base case, or assist the defence with the early preparation of their case or at a bail hearing, because (EXPLAIN HERE)’**

Streamline Disclosure Certificate (SDC) forms are not required for Crown Court cases, as they apply within Magistrate Court jurisdiction. For Crown Court, [MG6C \(link is external\)](#) and [MG6D \(link is external\)](#) forms are for disclosure.

In joint investigation cases, it remains the case that only one form is supplied per case. Any unused material held by the partner investigations representatives are required to be sighted by the DWP investigator so that they can be included in the single SDC.

## What the Lawyer needs to see:

- Only the item or items that you feel may undermine the case.
- You must not send all of the unused material listed on the SDC3.
- If you are completing an SDC3 and there is material that may undermine the case, you must list the item numbers at the last bullet point on the form stating ‘what it is’ and ‘why it may undermine’ and attach the item or items for sight only.
- You must also complete the section on the MG6 (Section 4) regarding disclosure.

The **CND/D column** is for CPS use and must not be changed.

## Naming conventions

Naming conventions are important. They save time and effort and allow each document to be identified without having to open them all to establish what has been sent through. Name the files accordingly, see [NFS Naming Conventions \(link is external\)](#).

## Completion of MG5

Complete the [MG5 \(link is external\)](#) on all cases. Password protection has been removed from the MG5, allowing officers to spellcheck the content prior to submission.

Officers must not amend or delete any of the wording on the MG5. The wording has been agreed with the Crown Prosecution Service (CPS) and is the standard that must be included for submission to the court.

The following sections must be completed, if applicable, having entered the defendant’s name and what the anticipated plea is likely to be. If there is any doubt about how the defendant will plea, the investigator must enter **Not Guilty** in the box:

- section 1 – Summary of Key evidence
- section 2 – Defendant interview
- section 3 – Non-Key evidence
- section 4 – Visually recorded evidence, if applicable
- section 6 – Forensic evidence, if applicable
- section 10 – Other, if applicable
- section 11 – Officer’s certification
- section 12 – Supervisor’s certification

The correct completion of MG5 Section 1 – Summary of Key evidence is a crucial element of National File Standard (NFS).

Evidence classed as key, that which proves the offence, are recorded as available using the methods outlined below and submitted to CPS via e-mail, with the appropriate witness statement included.

Where evidence is classed as key and the investigator is unable to obtain the appropriate witness statement, this can still be used as part of the submission.

Section 5d on the [MG6 \(link is external\)](#) is completed to advise the CPS lawyer of the problems encountered in obtaining it. Note your email that there is a missing witness statement.

The details of the case against the defendant must be broken down and recorded in a structured paragraph format:

- paragraph 1 – Introduction
- paragraph 2 – The claim
- paragraph 3 – Method of Payment and Condition of Entitlement
- paragraph 4 – The investigation/Offence in Summary. Set out the facts in chronological order, summarising the investigation, covering the points to prove of the offence and ensuring that all aspects of any partial denials/outright denial are rebutted
- paragraph 5 – The evidence, key evidence and witness statements
- paragraph 6 – Total overpayment

Where the overpayment includes an element of Housing Benefit (HB) or Council Tax Reduction (CTR), the summary must include details of any actions taken, or not taken, to assess any underlying entitlement to HB or CTR.

## **MG5 – Section 1**

### **Paragraph 1 – Introduction**

This case concerns [Single or Married – Male or Female] who was claiming [Benefit Type / HMRC Tax Credits / LA HB], to which he or she was not entitled to over a period of [Period of Offence – From and To dates only] which has led to a chargeable overpayment of benefit amounting to £[Amount]).

### **Paragraph 2 – The claim**

[Name of Defendant] was in receipt of [Benefit Type / HMRC Tax Credit / LALA HB] from [Date] to [Date] for him or herself and [Number] dependent children on the grounds that he/she was [provide circumstances] and had no other income.

### **Paragraph 3 – Method of Payment and Condition of Entitlement**

[Name of Defendant] was paid benefit by Automated Credit Transfer or Cheque directly into his/her [Name of bank/building society] account. This benefit was paid on the basis that he or she notify the Department for Work and Pensions / HMRC Tax Office / LA office, of any change in his/her circumstances or that he or she had declared their true circumstances at the time their claim was made, which would affect the amount of benefit in payment, or entitlement to benefit. Account numbers should not be quoted. If specifically required, only show the last four digits.

### **Paragraph 4 - The investigation or Offence in Summary**

Set out the facts in chronological order, summarising the investigation, covering the 'points to prove' of the offence and ensuring that all aspects of any partial denials or outright denial are rebutted.

Evidence is available to show that - Living Together example: [Name of Defendant] failed to declare a change in his or her circumstances to Department for Work and Pensions or omitted to declare to Department for Work and Pensions at the time of making his or her claim that he or she, namely that he or she has been maintaining a common household with [alleged partner] during the period from [date] to [date]..... The investigation identified.....

Set out the facts of the offence in chronological order, covering the 'points to prove' of the offence and their response:

- did they admit they were working or Living Together As a Married Couple (LTAMC), had Capital or Condition improved?
- did they admit they failed to declare the change in circumstances or omit the information on a claim form, at the outset. All benefits?
- did they admit they knew they had to inform the Department, LA or HMRC at the time of the offence took place?
- did their actions indicate dishonesty?

If admitted; note admission from IUC and cross reference with the item of key evidence that proves offence.

If the claimant admits knowledge or acting dishonestly and review claim forms or other documents, such as, uprating notifications have been issued during the period of offence, simply record this fact in this summary, for example:

- 'Defendant completed an Income Support A2 Review claim form, dated \*\*/ \*\*/\*\*\*\* – Defendant failed to declare on page # .....that they.....'
- 'The defendant received an award notification/annual uprating letter(s) dated....., which advises the defendant that they must report any changes in their circumstances to the department.'
- The Defendant received their S17 Annual Tax Credit Declaration Notice dated \*\*/\*\*/\*\*\*\* and renewed their claim based on this.

If denied or partially denied in the IUC: explain how the evidence disproves/rebuts the defendant's explanation of events etcetera, including any lack of knowledge and cross reference with the item of key evidence that proves otherwise.

Ensure you exhibit evidence that rebuts, challenges or disproves any claimant denial or partial denials as key.

If the claimant denies knowledge or acting dishonestly and you have review claim forms or other documents, such as uprating notifications, exhibit a small selection of them, part papers, in your initial submission.

### **Paragraph 5 - The Evidence – Key Evidence and Witness Statements**

One paragraph per key exhibitor, for example:

- [DWP investigator's name] will confirm [Name of defendant] claimed [DWP benefits / HMRC Tax Credits / LA HB] between [date] to [date], will exhibit Interview Under Caution dated... / ... / .... and will also confirm.....
- only in False From Outset cases - also add – 'Will exhibit [insert benefit] claim forms dated.....'
- applicable:
- [Decision Maker/Nominated Officer Name] will give evidence in respect of the overpayment and the loss of entitlement to benefit

### **Paragraph 6 – Total Overpayments**

If there is more than one benefit overpayment, break them down individually and then summarise to record the overall chargeable loss to the department:

- as a result of the defendant failing to declare his or her change of circumstance or to declare their true circumstances at the date of claim to the Department for Work and Pensions (DWP), a chargeable overpayment of £[Amount] arose during the period [date] to [date]

## **MG5 Section 2 – Defendant interview**

Investigators must ensure that the summary of the Interview Under Caution (IUC) contains:

- date, place of interview and persons present
- a record of the defendants understanding of the benefit rules or knowledge
- all admission or partial admissions or denials

- any defence or mitigation
- any other relevant information

### **MG5 Section 3 – Non-Key evidence**

Investigators must record all evidence that they class as corroborative or non-key of the key evidence detailed in section 1. This must be broken down into individual paragraphs, per individual piece of evidence.

Each paragraph must detail the name of the person or name of the business that will potentially produce the evidence and details of what the evidence is.

### **MG5 Section 4 – Visually recorded evidence**

If applicable, all visually recorded evidence should be detailed, such as, surveillance or Closed Circuit Television (CCTV) footage.

### **MG5 Section 6 – Forensic evidence**

If applicable, details of all evidence examined by forensic examiners must be recorded and time lines for returns.

### **MG5 Section 10 – Other**

If applicable, record details of when MG6 completed and if an MG18 has been completed.

### **MG5 Section 11 – Officers certification**

Investigators to record:

- name
- job title
- date

### **MG5 Section 12 – Supervisors certification**

Team Leaders (TL) or Higher Investigations Leaders (HIL) record:

- name
- job title
- date

## **Completion of MG6 – Case file evidence and information**

Complete the [MG6 \(link is external\)](#) on all cases and include:

- forensic evidence
- visually recorded evidence held
- disclosure issues, under Criminal Procedure and Investigation Act (CPIA) 1996
- witnesses, outstanding witness statements
- other offenders
- public interest
- Financial Investigation Unit (FIU) / Proceeds of Crime Act (POCA) 2002
- additional information - Notes to Advocate

On completion, the MG6 must be included in the e-mail to the Crown Prosecution Service (CPS), via the Digital Case Management Unit (DCMU), for sight of the lawyer only, not disclosable.

## **Case Details document**

Complete a Case Details document ([CD1](#)) for all cases submitted to the Crown Prosecution Service (CPS) covering the following areas of the case:

- anticipated plea for the case
- false from the outset case
- team name
- investigator and Team Leader (TL) or Higher Investigations Leader (HIL) contact details
- Local Authority (LA) fraud investigator contact details

- summary of alleged offences
- information about the suspected person
- Summary of Alleged Offences, including chargeable offences. Enter Primary and Secondary boxes. Add finer detail such as for example: "S111 (1)(b) Delay, obstruction etc. of inspector" into the About Offence section under 'Nature of Alleged Offence(s)'
- time-bar date if case suitable for prosecution under s112 (Exception cases only)
- Interview Under Caution (IUC) dates
- investigator's e-mail address
- police region
- is action being considered under the Proceeds of Crime Act (POCA)? If yes provide contact details to the Financial Investigation Unit (FIU)

**It is mandatory to note the subject header in emails when sending a CD1 to CPS where there is a pre-charge restraint order in place. This is to make it easily identifiable to CPS.**

On the instruction of CPS, only one CD1 is completed for each case. Where there are more chargeable offences than rows available, charges are merged where appropriate. Where the case is false from outset, the start date is the date the claim form was received by DWP (for example, 02/08/2006 - Birkenhead BDC)

For example:

Where there are three charge periods applicable to the same offence:

- 01/01/13 to 11/03/13 = £100.33
- 07/07/13 to 20/11/13 = £206.21
- 01/02/14 to 02/08/14 = £471.96

Record the combined dates and amounts as one entry (if it is for the same benefit and the claim is continuous):

- period 01/01/13 to 02/08/14
- amount = £778.50

This is also the case for false declaration offences

For investigations purposes any Tax Credit (TC) award is effective from the date of claim until the end of the tax year to which it relates. The tax year runs from 6 April of any given year until 5 April of the following year.

At the end of the tax year, a person claiming TC is issued with a notice asking them to confirm or correct their family circumstances as described in the notice and to declare their income in the tax year just ended by 31 July.

Where a person makes their annual declaration, this declaration is treated as a claim for the new tax year and that claim is treated as having been made on 6 April. The whole Tax Credit overpayment period is merged and noted on 1 line.

CPS will determine the final charges, as appropriate, following the lawyer check. Entry of the alleged offences under which proceedings have been considered must be limited to the two most prominent ones. Additional opinion may be relayed in the notes to advocate.

The [CD1](#) is attached to the e-mail as a Word document and submitted to DCMU for onward submission to CPS and placed on FRAIMS in the attachments tab. Where more than one e-mail is required to submit the case to CPS, attach the [CD1](#) to the first email constructed.

## **Errors on documents**

Under no circumstances should investigators alter or tamper with the original evidence. To do so could expose the person altering the evidence to criminal proceedings. Do not correct original documents by any method, including:

- erasure
- correction fluid
- deletion

If an error is made while preparing a new document, destroy it and start again.

## **False from the outset cases**

It may not be possible to prosecute cases where the claim is false from the outset without claim forms, unless other false documents, for example, ES24JP, Med3s, can be used as offence documents.

If the claim was false from the outset, the original claim form and any other claim and review forms completed during the period of the fraud will be used as offence documents.

If no claim forms or other documents are available, advice from the Crown Prosecution Service (CPS) must be sought.

## **Interview Under Caution conducted in a language other than English**

Where the Interview Under Caution (IUC) is conducted in languages other than English, or British Sign Language is used, the [MG6 \(link is external\)](#) Notes to Advocate, must document this, including the language used, in bold print.

If it is apparent that the defendant needs an interpreter at Court, the MG6 Notes to Advocate must include a note to this effect.

Attach both the original interview and the English translation in the prosecution file.

## **Selecting the likely offence**

When deciding on the appropriate legislation for DWP and local authority (LA) offences, the Investigator and their Team Leader (TL) or Higher Investigations Leader (HIL) must initially consider submitting the file under S111a or Fraud Act offences.

To be able to use either of these offences, dishonesty must have been covered either in the Interview Under Caution (IUC) or you have dishonest action in the completion of documents from the outset of the claim or during the period of the offence, such as attended interviews and failed to declare to advisor.

If S111a or Fraud Act legislation is not considered appropriate, the case must be considered under S112. Offences under S112 are subject to time-bar. For further information see:

[Offences subject to time-bar](#).

Any Tax Credit offences will be submitted under [Section 35 of the Tax Credit Act 2002 \(link is external\)](#).

Crown Prosecution Services (CPS) select charges which:

- reflect the seriousness and extent of the offending, supported by evidence
- give the court adequate powers to sentence and impose post- conviction orders
- enable the case to be presented in a clear and simple way.

In some cases the period of offending maybe reflected with a combination of offences contained on the summons as well as a MG18 schedule of offences to be [Taken Into Consideration](#) (TIC).

If possible, offences must always be selected so as to cover as much of the overpayment period as possible.

This usually means that where the claim was originally legitimate at the outset and the claimant failed to report a change of circumstances, a change of circumstances offence must be selected.

Those parts of the overpayment period not covered by the offences may be included as offences taken into consideration on the MG18 TIC schedule if appropriate.

Enter a brief and precise description of the nature of the alleged offence, for example, failure to report working.

If there is more than one offence type, such as a failure to declare work and an instrument of payment fraud, highlight both offences here.



In Counter Fraud and Compliance Directorate Criminal Investigations cases, it is possible that in addition to the standard range of offences there could also be offences such as conspiracy to defraud, aiding and abetting and incitement.

Investigators must contact a CPS lawyer for pre-arrest advice on charges, as the police are not entitled to select the charge or offence in DWP cases.

Record any contact and response received on Fraud Referral and Intervention Management System (FRAIMS), see: [FRAIMS guidance – Obtaining legal advice](#).

**Note:** Under the Attorney General's guidelines, no person can be charged with the offence of conspiracy to defraud at common law unless use of this offence or charge has been authorised by a CPS lawyer.

### **Unique Reference Number (URN) Primary Offence code.**

For the purpose of generating a URN the Primary Offence code must be selected from the list below. This code supports the establishment of generic statistics with CPS and is thus required to be a 'Best Fit' as perceived by the Investigator in conjunction with their HEO.

Each URN must be generated by the Investigations Team Leader using the distributed tool before sending any case to the DCMU unit.

Abroad	AB
Attempt	AT
Access to Work	AW
UC Child Care Costs	CC
Child Dependency	CD
Contract Fraud	CF
Disability in Doubt	DD
Employer Involvement	EI
Full Time Education	FT
Housing Benefit	HB

UC Housing Costs	HC
Identity	ID
Instrument of Payment	IP
Living Together	LT
Motability	MO
Not Caring	NC
Partner working	PW
Social Fund	SF
Tax Credit	TC
Undeclared Capital/Savings/Other Income (Suspect or partner)	US
Working in Receipt	WR

### **Offences subject to time-bar**

Offences under Sections 112 or 112(1A) of the SSAA 1992 are subject to a statutory time-bar.

Proceedings for an offence under SSAA 1992 may be begun at any time within a period of three months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to their knowledge or within a period of 12 months from the commission of the offence, whichever period last expires.

If this is not done, the offences are statutory time-barred and the prosecution are unable to prosecute the offences under these provisions.

If the offence is a continuous offence under Section 112(1A) of the SSAA 1992, the entire offending period will be in time, as long as part of the offending period falls within the statutory time-bar date.

### **When are cases time-barred**



In false representation cases, section 112 and 112(1A) of the SSAA 1992, the date of the offence is the date on which the representation was received, usually the date on which it was received by the benefits office and stamped on the front.

For time-bar purposes, the 12 month clock begins to run from the date on which the representation was received.

In a case of failure to notify a change of circumstances, the period of offending begins at the start of the overpayment period and ceases at the end of the overpayment period, or the day before the date of the first Interview Under Caution (IUC), whichever is earlier.

Exceptionally, if the first IUC is ineffective, such as, no admission obtained or insufficient evidence to refer the case to a decision maker (DM), then the period of the offence may be extended to the first effective IUC.

It may be possible to obtain a [Secretary of State Certificate \(link is external\)](#) to save what would otherwise be a time-barred case under section 112 of the SSAA 1992.

The use of a Secretary of State Certificate is usually confined to cases where the offences under section 112 of the SSAA 1992 are already time-barred, or are close to being time-barred on discovery of the fraud.

Under section 116 of the SSAA 1992, the Senior Investigations Leader (SIL), on behalf of the Secretary of State, can institute criminal proceedings within a period of three months from the date on which sufficiency of evidence of the commission of offences comes to the knowledge of the Secretary of State.

This means that even though the offences may already be time-barred, or close to it, the Department can institute criminal proceedings if the requisition is laid at the court within 3 months of the date on which sufficient evidence to justify a prosecution came to the knowledge of the Secretary of State.

It is a common misunderstanding that the 3 month period runs from the date of the certificate, but this is not the case. The 3 month period commences from the date on which sufficient evidence to justify the issue of criminal proceedings came to the knowledge of the Secretary of State. This is the date upon receipt of the recoverability decision, DL ORG7 by the Counter Fraud and Compliance Directorate (CFCD). Record the date of DL ORG7 on FRAIMS.

Alternatively, in Failure To Attend (FTA) or Administrative Penalty (Ad-Pen) refused cases, the sufficiency of evidence date is the date on which the Ad-Pen is unsuccessful, such as, the date of the initial refusal (or FTA) or the date of refusal at the end of the cooling off period, whichever is earlier.

If an Ad-Pen is accepted, the subject has a 14 day cooling off period in which the penalty can be rejected.

Should the subject decline the Ad-Pen during the cooling off period, the sufficiency of evidence date is the date of rejection.

When satisfied that the case has a realistic prospect of conviction, the Team Leader (TL) or Higher Investigations Leader (HIL) must create a FRAIMS activity advising the Senior Investigations Leader (SIL) that a Section 116 case is available for consideration.

The activity must be supported by the case summary, a chronology of the case and a completed [Secretary of State Certificate desk aid \(link is external\)](#).

The TL or HIL decision to recommend prosecution action must take place without delay and within no more than 30 working days of receipt of the DL ORG7 or sufficiency of evidence date in Ad-Pen cases. For joint working cases see: [DWP offences where LA offence also committed](#).

Where additional evidence is requested by the TL, HIL or SIL, the 30 working days to recommend prosecution commences from the date when additional evidence has been obtained.

Additional evidence would only affect the sufficiency of evidence date if it is evidence that would not have been expected to have been gathered during the main investigation.

In all potential Secretary of State Certificate cases, FRAIMS must be clearly marked to alert the SIL that a Secretary of State Certificate is required.

The chronology must provide all key dates in the investigation, for example:

- the date the investigation commenced
- the date of IUC, dates of IUC invites if necessary or failed to attend
- the date on which the DL ORG7 notification was received, defined as acknowledgement on receipt of DL ORG7 by way of an activity on FRAIMS
- the date [Ad-Pen](#) offered and declined
- the date on which the TL or HIL recommends that the case is suitable for prosecution
- an explanation of delays of more than four weeks or 28 consecutive days and the action taken to address these.

A strict rejection policy applies for time-barred cases where, in the SIL's judgment, delays in case processing or investigation is excessive, or where time limits are exceeded. You must therefore make sure BFs are managed properly and there are no unnecessary delays progressing the case, for example:

- waiting for an LA overpayment decision
- the outcome of an appeal
- chasing up OIU enquiries
- dealing with responses.

Take care when identifying time-bar where there are gaps in the periods of overpayment. If the earlier period is time-barred, but the latter period is not, to enable the totality of the offending to be charged, submit the case in time for the whole period of offending to be included within the Secretary of State Certificate.

If only the latter periods are in time, the CPS is only able to charge the latter period under Section 112.

The Senior Investigations Leader (SIL) must review the case within no more than 35 working days, from the sufficiency of evidence date, to determine whether a Secretary of State Certificate is appropriate.

If a certificate is appropriate and justifiable, the SIL must complete and sign the hard copy and attach a scanned version to FRAIMS. A hard copy of the original certificate is held securely by the SIL for audit purposes.

The SIL must enter an activity of FRAIMS to the Team Leader (TL) or Higher Investigation Leader (HIL), informing them that the Secretary of State Certificate has been signed off, with the date of issue.

It is imperative that the SIL makes suitable arrangements for their absence with SIL colleagues. A clear understanding of these arrangements is made available to the TL or HIL, as delegation of their responsibility cannot pass below the SIL grade.

The TL or HIL must attach a printed copy of the authorised Secretary of State Certificate to the evidence file before sending it to the appropriate Digital Case Management Unit (DCMU) for full file preparation.

DCMU has 45 working days from the sufficiency of evidence date in which to prepare and submit the prosecution file to Crown Prosecution Service (CPS).

If a request for a Secretary of State Certificate is declined, the SIL must raise an activity on FRAIMS alerting the TL or HIL to the decision and reason for rejection.

The SIL may choose to discuss the outcome of the decision with the TL or HIL and suggest appropriate action if necessary.

## Case review procedure

Where the CPS disagrees with the Senior Investigations Leader's decision to award a Secretary of State Certificate, the reviewing lawyer will contact the SIL to discuss the case.

## Offences

When suggesting offences, consider the following:

- if using offences based on false declarations, demonstrate the full period by selecting earlier and later dates of offences. Be aware that if this is another prosecution of the same claimant that there may be a loss of benefit provision applicable if the period between the date of the previous court appearance and the date of the first offence of the latest court appearance is less than five years
- the offence must be 'in time' when the information is laid in Section 112 cases
- the accused should normally have been shown, at the IUC, the documents appropriate to the suggested offences
- where the claimant has failed to declare more than one matter, for example, claimant and spouse or civil partner earnings, select offences which bring out both matters
- where the Financial Investigations Unit (FIU) are considering a confiscation hearing, consultation with the FIU must take place before suggested dates are put forward, in order to make sure that the required charges are used.

Against each offence date enter the amount of overpayment attributable to each offence, for example:

- if the offence is considered under Section 112(1A) of the SSAA 1992 and the period of offending is not time-barred the entire overpayment period can be attributed to the corresponding offence. This would include the period of the overpayment that occurred 12 months prior to the information being laid providing that the overpayment is continuous
- in section 112(1A) offences, if the fraud covers more than one continuous overpayment period, the overpayments that are time-barred in their entirety can be included on a MG18 schedule of offences to be Taken Into Consideration (TIC). However, it must be noted that some courts do not allow time-barred TIC's to be put to the defendant because the offences are out of time
- offences under Section 111A(1A) of the SSAA 1992 are not subject to a statutory time-bar, however the attributable overpayments cannot be prior to 19 October 2001. Legislation governing this offence was not in force until that date
- if a JCP24 is used, fortnightly declaration form signed at a Jobcentre Plus office in which the claimant states that they have done no work since the previous declaration, the amount shown against the suggested offence date would only be two weeks benefit as the declaration would only cover this period. If a number of JCP24s are used and are sequential, the offence period would be shown as the period covered by the sequential JCP24s
- if a claim form is used as the offence document and the whole of the overpayment is attributable to the false declaration on the form the total amount of the overpayment must be shown next to the date of the offence
- except where the claim is false from the outset, if a claim or review form, for example JCP24, is used as the offence document, the amount of overpayment is the period from the date the form was received by the Department to the date the next review form was received or the overpayment end date if a subsequent review was not made
- in 'false from the outset' cases the claim form is used as the offence document.

It is important to include as much as possible of the overpayment as the substantive offences, since the rest of the alleged offences are covered by the TIC schedule. If the defendant does not accept the TIC schedule they are only convicted on the substantive offences.

Where a confiscation hearing is to take place, note that only those charges to which the defendant pleads guilty or is found guilty, plus the total of accepted TICs, may be used as proven criminal benefit.

In confiscation cases, it is vital that each charge has an amount attached to it and that as much of the overpayment as possible is covered by the charges. This makes sure that the full amount of overpayment is requested by way of confiscation proceedings.

## **Place of offence**

On the case summary show the:

- name of the town
  - name of the county
  - where the offence actually took place or is said to have taken place.
- When a false document forms the basis of the offence such as a claim form or instrument of payment, the place of offence is usually an official address, for example:

- Jobcentre Plus office
- Local Authority office
- Post Office
- HMRC Tax Office.

Where Section 111A (1A) or Section 112(1A) offences are used, the place of offence is usually the claimant's home address.

The court in the area where the offence occurred normally hears the case, for example, if the claimant committed a benefit offence in Leeds and then moved to London the case would be heard in Leeds.

## **Additional information in failure to notify change of circumstances cases**

When someone fails to declare a change of circumstances the following elements must be established:

- that there was a change of circumstances affecting the claimant's entitlement to benefit
- that the claimant knew that the change of circumstances affected their entitlement to benefit at the time of the change
- that the claimant had failed promptly to notify the change of circumstances to the correct department.

## **Tax Credit – additional action to take**

Tax Credit offences can be considered where it can be proved that a person is knowingly concerned in any fraudulent activity undertaken with a view to obtaining payments of Tax Credits by them or any other person. Further details on case specific action to be taken on Tax Credit prosecutions cases can be found in the instructions [Joint Working with HMRC on tax credit cases](#).

Confirmation of these elements must be established during the Interview Under Caution.

## **Investigation or legal costs**

If the criteria for applying for a compensation order are satisfied, the summary of facts must state that a compensation order is to be or has been requested. When a compensation order is not requested, the summary must state that the Department will use its own means to recover the debt.

It must also be noted that a compensation order can be requested as well as a confiscation order when the Department are seeking to confiscate assets.

In particularly complex cases, prepare a chronological schedule of events if it would assist in presenting the facts.

Use charts and diagrams where appropriate, suitably cross-referenced to the relevant statements and or exhibits.

Boxes covering the following are included in the case summary:

- Compensation

- Forfeiture or Destruction Order
- Proceeds of Crime case.

If one or more of these apply, the Investigator must tick the relevant box, indicating to the prosecutor that such an application.

Unless it is appropriate to apply for full court costs, the prosecutor will apply for a contribution towards the costs and the summary must include the following:

**‘Note to Advocate**

**In the event of a guilty plea in the Magistrates Court please apply for £100 as a contribution towards investigation and prosecution costs or £250 if the defendant is found guilty following a not guilty plea in a Magistrates Court.’**

The Crown Prosecution Service (CPS) issues Counsel with separate instructions in the event of the case being committed to the Crown Court.

When it is deemed appropriate to apply for full investigation and prosecution costs a schedule of investigation and prosecution costs must be completed on the [EC6 \(link is external\)](#), Estimate of Investigation and Prosecution Costs, and submitted with the prosecution file.

Reference to the EC6 schedule must be included on the summary on the reverse side of the case summary, in the part that refers to the application for costs. For further information, see [Compensation Orders and Court Costs](#).

**Overpayment periods**

The overpayment and offence period are not always the same. Where the overpayment period ends after the date the claimant declared the relevant change, which is usually the date of the IUC, exclude the overpaid benefit from this date. For example:

Overpaid JSA	01/08/11 – 01/12/11	£2,129.84
Overpaid HB	03/08/11 – 08/02/12	£1,158.91
Overpaid CTB	03/08/11 – 01/03/12	£369.29
<b>Total Overpayment</b>		<b>£3,658.04</b>

The claimant was interviewed under caution on 15 December 2011 and admitted the offence therefore any overpayment from the payday following the date of the IUC must be excluded. The overpayment relevant to the offence which is what must be shown in the CD1 is as follows:

Overpaid JSA	01/08/11 – 01/12/11	£2,129.84
Overpaid HB	03/08/11 – 15/12/11	£734.60

Overpaid CTB	03/08/11 – 15/12/11	£116.55
<b>Total Overpayment</b>		<b>£2,980.99</b>

### Tax credit charge periods

The overpayment and offence periods are not always the same and are dependent on the following scenarios:

- Claimant attends an IUC and admits to the offence. The charging period is from the date the offence commenced up to and including the date of the IUC. If the claim has ended before the IUC date (for example, a child in care case), the charging period is from the start of the offence up to and including the award end date
- Claimant attends an IUC but does **not** admit to the offence. The charging period is from the date the offence commenced up to and including the date of the HMRC decision maker's (DM's) decision
- Claimant fails to attend an IUC. The charging period is from the date the offence commenced up to and including the date of the HMRC DM's decision.

### Sending files to the Crown Prosecution Service

Send all cases to the Crown Prosecution Service (CPS) electronically, via the Team Leader or Higher Investigations Leader and then the Digital Case Management Unit (DCMU).

Investigators cannot send their cases directly to CPS. Paper based prosecution files are no longer accepted by the CPS.

### Case Document Retention

#### Action to take following closure of the case

Retain the electronic case documentation in line with the normal retention periods, as per the current clerical existing guidelines.

Investigators will, during the course of the investigation, attach electronic evidential documents to either the Fraud Referral and Intervention Management System (FRAIMS) or save or store within their team Electronic Evidence folder. Retain original versions of the evidential documents obtained during the investigation in the physical clerical file.

When a case has been completely through the court system, and is closed on FRAIMS, FRAIMS will automatically set a retention period and the clerical file will be afforded an appropriate destruction date and sent to RS Web storage.

#### Process to follow

Setting up a retention system in your team Electronic Evidence (EE) shared folder:

1. Set up a folder named **Destruction Cases** in the Electronic Evidence (EE) shared folder,
2. Set up sub-folders with years on them, for example, 2014, 2015, 2016, 2017.

#### 3. Set up within year sub-folders, for example set up 12 month sub-folders:

- January
  - February
  - March
4. Set the appropriate retention period (minimum 14 months and the maximum is five years).
  5. Place the electronic cases in the appropriate year or month based on the case destruction date, mirroring the date set for RS Web.
  6. If the destruction date has passed, you must either:



- nominate an officer with this responsibility to destroy cases once the destruction month has passed
  - set the date on your own calendar on your desk top with a reminder to destroy your case, once the destruction month has passed
7. Cases must be transferred into the appropriate folder by the investigator upon case closure.
8. Ensure the storage of cases is rigorously maintained.

**Note:** Once the facility to store these files is operating, Investigators are reminded that under no circumstances must cases (or documents) be stored in my documents or in any other personal folder.

## 03 Reporting a case to the Procurator Fiscal

### Completion of PF13

1. Submissions to the Scotland Central Prosecution Team (CPT) for consideration of proceedings must be on the [PF13](#) fully completed by the investigator.

### Listing of Information on PF13

2. In all cases all information that is relevant must be listed by the investigator on a [PF13](#) ([link is external](#)).
3. Relevant information includes anything that appears to an investigator to have some bearing on any offence under investigation, or on any person being investigated, or on the surrounding circumstances. This would be information that:
- will prove the offence
  - although may not prove the case may help the prosecution's case
  - is exculpatory information that will help the Defence's case, for further information, see [Exculpatory Information](#)
4. If the information is sensitive, the sensitive box must be marked 'X' on the PF13. If any information is classed as highly sensitive this must be noted in the notes box of the PF13, see [Sensitive and highly sensitive information](#).
5. Non-relevant information that is incapable of having any impact on the case should not be included.
6. See [Guidance notes for PF13 completion](#), these must be followed when completing a PF13.

### Information that would not be relevant

7. The following are examples of information that would neither strengthen nor weaken the prosecution or defence case and should not be include in the Standard Prosecution Report (SPR) report:

[Redacted]

### Exculpatory Information

8. Exculpatory information is described in the Code of Practice as:
- information which may point to the conclusion that no crime has been committed or that no crime has been committed on the date or at the place libelled
  - information which may contradict evidence (real or oral) on which the Crown case will rely
  - information which may cast doubt on the credibility or reliability of the Crown witnesses
  - information which may be inconsistent with scientific or other expert evidence on which the Crown will rely or with inferences which may be drawn from such evidence
  - information which may point towards another person as the perpetrator
  - information which may reduce the degree of seriousness of the offence.

### Non-sensitive information

9. This is information that is relevant to the investigation that cannot be classed as sensitive or highly sensitive

## **Sensitive and highly sensitive information**

10. The definitions of sensitive and highly sensitive information shown in the Code of Practice should always be used when revealing information to the Procurator Fiscal (PF) and these definitions must not be confused with the Department for Work and Pensions (DWP) sensitive marking guidance in relation to information received from members of the public.

11. The Department's view on information received from members of the public is that it should be treated as sensitive and unless they give their explicit permission it should not be used as evidence, shown to the accused, or disclosed as there is the risk of this person being identified.

12. Examples of this are a written allegation or photographs supplied by the person making the allegation.

13. For further information, see [Information received from members of the public](#).

### **Sensitive Information**

14. Sensitive information is described in 19.3 of the Code of Practice as having the following effect:

- cause serious injury or death to any person
- obstruct or prevent the prevention, detection, investigation or prosecution of crime
- cause serious prejudice to the public interest

15. For DWP this means information that would show:

- how an investigation is conducted
- personal details of officers involved in the investigation
- details of third parties that have no involvement in the investigation
- identity of the person making the allegation

16. Examples of information that could be classified as sensitive would be the following:

- surveillance logs that hold information of locations, personal details and vehicle details used and seen during an investigation
- anonymous letters
- Regulation of Investigatory Powers Act (RIPA) forms if they contain sensitive information. For further information, see [Disclosure](#)
- video evidence as this could include third party information

17. For further information and examples of the material that should be considered as being sensitive see [Evidence Files – Sensitive Information](#).

### **Highly sensitive information**

18. Highly sensitive information is described in 19.4 of the Code of Practice as having the following effect:

- loss of life as a direct result of disclosure
- national security being threatened
- the identity of a Covert Human Intelligence Source (CHIS) being exposed

19. For DWP this means that it will be rare that any information would be marked highly sensitive, unless for example the police use a CHIS in a joint investigation with DWP.

## **Joint Working Cases**

20. When a case has been jointly investigated with the Local Authority (LA) or another agency such as Her Majesty's Revenue and Customs (HMRC) it will be necessary for the investigator to engage with the investigator from the other agency to ensure that details of relevant information from both agencies are included on the [PF13 \(link is external\)](#).

21. The agency taking the lead in the investigation will be responsible for appointing a reviewing officer and reporting the case to the PF.



## **Roles of senior investigating officer, reviewing officer and reporting officer**

22. The roles can be undertaken by the same officer who would be the investigator, if necessary.

23. The senior investigating officer who will usually be the Team Leader (TL) or Higher Investigations Leader (HIL) is responsible for the directing the investigation of the case.

24. The reviewing officer is responsible for ensuring that all information relevant to the case has been listed on the [PF13](#) and that sensitive or highly sensitive information is correctly highlighted.

25. The reporting officer reports the case to Central Prosecution Team (CPT) for completion of the Standard Prosecution Report (SPR).

26. This role must not be confused with the role of the officer in CPT who completes the SPR.

27. The completed PF13 will be sent electronically to CPT, a copy will be attached to the evidence file. The evidence file will then be sent to CPT.

28. Copies of witness statements are attached to FRAIMS, the originals are kept on the evidence file.

## **Completion of Standard Prosecution Report**

29. On receipt of the [PF13](#) and the evidence file, the Central Prosecution Team (CPT) will complete a Standard Prosecution Report (SPR) on the Specialist Reporting Agency Web system (SRAWEB) and send to the Crown Office and Procurator Fiscal Service (COPFS).

30. The report will include a summary of the case and include all relevant. Information. The information that forms the basis of the offence will be shown as productions.

31. Relevant information considered as exculpatory, that which could weaken the prosecution case or strengthen the defence case must also be included in the report.

## **Witness statements**

32. A witness can refer to their statement in court in all cases called on or after 6 June 2011.

33. A spouse or civil partner can be compelled to give evidence from 28 March 2011 depending on the following circumstances:

- in summary cases if the first hearing is on or after this date
- in solemn cases if the following occurred on or after 28 March 2011:
  - a warrant to arrest and commit has been granted
  - a petition has been intimated
  - an indictment has been served

34. For further information about interviewing spouses and partners and obtaining witness statements see [Spouses or Partners](#).

## **Completion of Disclosure Schedules in Solemn Cases**

35. Central Prosecution Team (CPT) can anticipate that the case will be solemn and triable in the High Court if the overpayment is over £25,000.

36. In these cases non-sensitive, sensitive and highly sensitive disclosure schedules will be completed by CPT electronically via SRAWEB from information provided on the PF13.

## **Recording the case on FRAIMS**

37. Once the SPR has been sent to the PF, record this on the FRAIMS case and set a suitable Due Date, see [FRAIMS guidance - Submitting the File to the Procurator Fiscal](#).

## **Action by Procurator Fiscal**

38. Once a report has been received by the Procurator Fiscal (PF) they will decide whether there is sufficient evidence available in the statements submitted, for a complaint to be issued against the accused.

39. Before making the decision to issue a complaint, the PF may request that further enquiries are made. This may include interviewing and obtaining witness statements on the [PF11S \(link is external\)](#) from either prosecution or defence witnesses or both, this is sometimes referred to as precognition.

40. As agents for the Crown Office and Procurator Fiscal Service (COPFS) it is the responsibility of the Counter Fraud and Compliance Directorate (CFCD) to make these enquiries.

41. Unless the witness is also suspected of an offence the interview must not be under caution.

42. The PF will direct what information is required, however if the investigator does not agree with what the PF is requesting it can be challenged, for example: the PF requests a line of enquiry that has already been addressed in a statement that has already been disclosed.

43. For more information about precognition see Court Hearings (Scotland) [02 Precognition](#).

### **Information obtained after a case is reported to Procurator Fiscal**

44. It is important that the Central Prosecution Team (CPT) inform the Procurator Fiscal (PF) immediately of any relevant information received after the case is reported to the PF. This will be done by attaching a memo to the SRAWEB.

## **Guidance notes for PF13 completion**

1. For use only if the case is to be considered for Prosecution. Do not use if the fraud penalty is a Caution or Administrative Penalty.

### **Part 1 – Details of Suspected person**

#### **ECHR date**

2. This stands for 'European Court of Human Rights Date' and is the date the suspected person became aware of the investigation.

#### **Offence type**

3. Enter offence type, for example: Working in Receipt, Living Together As a Married Couple (LTAMC), Capital.

#### **Suggested legislation:**

- Section 111A (1A) – Failure to declare a change of circumstances
- Section 111A (1)(a) - False statements or false from outset dated after 30/04/2002
- Common Law - False statements or claims for offences dated prior to 30/04/2002.

### **Part 2 – Relevant information or evidence**

- evidence or information held – list the name of the document or evidence held
- description and relevance – relate the evidence held to the offence you are attempting to prove:

Evidence or Information held	Description and Relevance
FRF	Fraud Referral Form giving details of the allegation

Benefit screen prints	Computer screen prints confirming award and payment of benefit for period specified
EQ1	Employer wage details received from name of employer in respect of the claimant, Alleged Partner (AP) or Dependant.
RFI	Request for Information or Intelligence to Operational Intelligence Unit (OIU)
CMEC Prints or Replies	Child Maintenance details received showing details of maintenance or details of AP
Bank accounts	<p>State</p> <p>name of bank</p> <p>dates statements held from and to name and number of account:</p> <p>name account is held in</p> <p>what the account shows for example, payment of AP wages</p> <p>in a capital case dates and amounts capital held went over the limit.</p>
Loan applications	<p>State:</p> <p>name of loan or finance company</p> <p>type of application made for example, car finance or loan repayment</p> <p>details of applicant(s)</p> <p>was it a joint application?</p> <p>whose names are listed</p> <p>what marital status is listed</p> <p>what address is used, and so on.</p>
RIP1/3	RIP1 showing authorisation granted to conduct authorised surveillance and RIP3 showing surveillance ended.
Local Authority requests	List:

	<p>checks made by Local Authority education enquiries</p> <p>Housing or Council Tax enquiries, and any other relevant enquiry made and the outcome.</p>
<p>Witness statement</p> <p>Only detail those used in evidence for example, neighbours in a Living Together case, not witnesses who speak to evidence held.</p>	<p>List witness statements identifying:</p> <p>the name of the form - LA forms have different names to PF11S</p> <p>who the witness is by name</p> <p>outline what is contained in the statement, proving or disproving allegation.</p>
IUC Transcript	<p>Include:</p> <p>typed transcript of taped interview with claimant or AP on date specified</p> <p>does the claimant or AP admits or denies offence(s).</p>
LMS Prints	<p>Departmental Labour Market system screen prints dated and state why included, for example, failed to attend various appointments, attended WFI and didn't advise of work, and so on.</p>
Claim forms	<p>List names of forms and dates.</p>
INF/IB/JSA/ESA Leaflets	<p>List leaflets relevant to specific benefit and name each using the leaflet title.</p>
DVLA checks	<p>DVLA VQ4/5 reply received to request information on car registrations and give details.</p>
NAFN checks	<p>State type of check and what was obtained.</p>
Voters Roll	<p>Extract of voters role for year at address</p>

	showing and state what it shows.
Marriage and birth certificates	Extract from birth and marriage register dated showing and state relevance.
ES24s	Signing declarations dated between dates given.
Observation logs	Surveillance log dated between dates given and detail surveillance carried out at addresses.
Notebook entries with info not held elsewhere for example, visit to a neighbour who gave a verbal statement, or information not held on a statement.	Include:  copy of N1 notes dated state dates and what's included.
IUC tape	Tape recording of IUC dated.
DMU Decision - LT54, QB16, ORG7	List:  Decision maker's decision schedule of overpayment and overpayment letter dated.
DVD Footage or photographic evidence	DVD or photographs obtained during surveillance dated.
Telephone calls which add information and are relevant	List details of any relevant calls
Facebook details	Copies of Facebook account in the name of claimant or AP and state what it shows.
Credit reference checks.	Experian or Equifax checks obtained in respect of accused at address.

Appointment Letters	Appointment letter issued to accused on date.
Leaflet CI16	Leaflet what happens next given, issued to the accused at interview or by post.

This list is not exhaustive

### Part 3 – Details of witnesses

4. List all the witnesses and all the aspects of the case they will speak to.

### Part 4 – Document or Evidence check

5. This is a check list to ensure that all documents are available and necessary actions have taken place.

### Part 5 – Aspects of case considered

6. Include any aspect of the case that the Procurator Fiscal may wish to consider. Examples of this are:

- mitigation or aggravation – state reason given by the claimant for committing the offence or if they have worked under a false name
- insufficient witnesses available - state evidence held such as: starter forms held, specialist knowledge details held by employer, for example, are aware the claimant was facing disciplinary action

### Part 6 – Post approval

7. Notes box for Team Leader (TL) or Higher Investigations Leader (HIL). Enter any other relevant information the TL or HIL and/or investigator is aware of, this could include:

- previous offences or files
- advice received already from PF or any other source and
- details of any vulnerable witnesses

## 04 Witness statements and availability

### Witness statements

#### How to exhibit/produce evidence

1. In England and Wales (E&W), all evidence required to be exhibited must be included in an [MG11 \(link is external\)](#) witness statement.

Witness statements must be obtained as soon as it is identified that the case is suitable for submission to CPS for court action.

If the case is suitable for the offer of an Administrative Penalty, then the witness statements to support the evidence need not be obtained unless it is subsequently decided to upgrade the action to a CPS submission. It however remains a requirement that the evidence is of a prosecutable standard.

Where the evidence to be exhibited has been obtained by an intelligence officer using statutory powers, a continuity statement will be required from them only if evidence is contested, unless specifically asked for by CPS. This is applicable in England and Wales only.

Where a benefit processor undertakes system interrogation directed by the investigator, a system check continuity statement will be required from them.

2. In Scotland, the witness statements must be made on the [PF11\(S\) \(link is external\)](#) form. The witness statements must include details of all the productions each individual witness can speak to if they are required to give oral evidence at court.

### **Counter Fraud and Compliance Directorate statements**

3. The investigator must record details of the investigation and exhibit:

- false declaration documents, complete documents as a PDF when obtained from DRS, relevant pages only when obtained from paper copy (always include declaration), in False from Outset cases, exhibited by the investigator.
- false declaration review documents, complete documents as a PDF when obtained from DRS, relevant pages only when obtained from paper copy or a selection if there are multiples completed during period of offence, if the offence is Denied or partially Denied in IUC, exhibited by investigator. (always include declaration)  
Note: Claim declarations where the offence has been admitted at IUC and is being dealt with as a Guilty Anticipated Plea, should still be complete, but a note to Advocate on the MG6 should indicate relevant pages/information (as applicable). Change of Circumstances charge – the claim document is not required (unless false declaration during period of fraud).
- full claim forms are required for Disability Living Allowance (DLA) – For Personal Independence Payment (PIP), the entire form is obtained via DRS
- Interview Under Caution (IUC) transcripts. (In Scottish Criminal Investigations cases, the sealed or working copy of the CD or tape is sent to the Procurator Fiscal (PF) on request. A working copy will be kept on the evidence file)
- Schedule of Assets (SOA)/Schedule of Payments (SOP)/Schedule of Earnings (SOE)
- all of the above, where exhibited or produced, should also be recorded as being so in the [MG5 \(link is external\) \(link is external\)](#) Key evidence for the Department for Work and Pensions (DWP) investigator.

4. Investigators must follow the guidance on how to complete an [MG11 \(link is external\)](#) form.

### **Completion of MG11**

5. The lead officer must complete a robust [MG11 \(link is external\)](#) statement detailing:

- the investigation process
- benefit claim history
- evidence obtained
- relevance to the case
- exhibit details.

6. Investigators must not exhibit the CDs, tapes or system prints.

7. It is the responsibility of the investigator to complete the statement. However the Team Leader (TL) or Higher Investigations Leader (HIL) must ensure that the statement is fully compliant with current guidance and relates to the information contained in the [MG5 \(link is external\)](#).

8. Surveillance officer MG11 exhibits the edited footage, surveillance summary logs and continuity log.

The suite of RIP forms are now required by CPS at initial submission but are not Key or Non Key evidence they should still be listed on the Unused material schedule as sensitive.

MG11 Statement will be issued by Tax Credit Desk to exhibit transcripts of Tax Credit voice recording claims or annual renewal notices, if applicable, and Tax Credit claim forms, if applicable.

Where a hand written MG11 witness statement has been obtained, it must be typed up at the earliest opportunity. Only a typed version should be sent to the Crown Prosecution Service (CPS), in England and Wales for the first hearing.

### **Recording case surveillance - Overview of requirements**

11. For the first hearing, the lead officer must:

- summarise the whole period of surveillance on the case on their [MG11 \(link is external\)](#)
- briefly summarise the period of surveillance on the [MG5 \(link is external\)](#)
- detail the period of surveillance on the [MG6 \(link is external\)](#)
- detail any periods of surveillance when no sightings made, disclosure, on MG6
- detail all other additional officers statements available in the **Non Key Evidence** section of the MG5

12. File upgrade, if contested at case management stage:

- the lead officer to exhibit surveillance log, if available
- the additional officer statements to be supplied

## Decision Maker witness statements

### Generic Decision Maker witness statements

13. The Org7 and LT54 or equivalent. For example, the DBDU810 for Disability Living Allowance cases are standalone documents and do not need to be exhibited or produced by the investigator.

14. Generic Decision Makers Statements are not required from DWP, Her Majesty's Revenue and Customs (HMRC) or Local Authority (LA) sources, **unless** the evidence has been contested.

15. They must be included as part of the electronic submission sent to the Digital Case Management Unit (DCMU) in England and Wales (E&W). This applies to all types of decisions, including those made by the Disability and Carers Service, The Pension Service, Local Authorities and Her Majesty's Revenue and Customs,

16. The Record of Decision (ROD) must not be included in the email to the Digital Case Management Unit (DCMU) / Crown Prosecution Service (CPS).

17. In Joint cases where the partner organisations overpayment decision/Letter (usually LA), **cannot** be obtained, a full explanation of the facts must be given in Part 9 of the MG6 as a note to the advocate.

#### Change of lead officer

18. Where there is a change in lead officer, statements will be required from former lead officers if they conducted an Interview Under Caution (IUC). For example; the original officer no longer works for the Counter Fraud and Compliance Directorate (CFCD) or the Department.

19. If a second officer was present at the IUC they can exhibit details of the interview in their statement.

20. If the former lead officer's involvement was purely in surveillance operations where another officer was present, the second officer can adopt the notes from the lead officer's official notebook (N1).

21. When a statement is required from an officer who no longer works for the department they must be contacted as soon as possible to explain what is required from them and keep them informed of the progress of the case including court hearing dates.

22. If former lead officers are the only persons who can exhibit particular pieces of evidence and they cannot be located, or attend court, the Crown Prosecution Service (CPS) must be consulted to ascertain whether the case can proceed. For example, they are seriously ill or living abroad.



23. In Scotland, if the lead officer or the second witness is not available, notify the Procurator Fiscal in the submission.

### **Vehicle ownership**

24. For cases involving vehicle ownership information, investigators must be aware that the Driver and Vehicle Licensing Agency (DVLA) will not provide witness statements. As a result, the investigator will need to include information on vehicle ownership within their statement.

25. In National File Standard (NFS) cases, England and Wales only, where there is a requirement to exhibit details obtained, a section 9 statement and exhibit label must be obtained from National Anti-Fraud Network (NAFN). See Evidence Gathering [06 Obtaining Vehicle Keeper Details](#).

### **Scotland**

26. In Scotland, the investigator also produces:

- all information relevant to the overpayment. This must include:
  - a copy of the overpayment letter sent to the claimant, ORG7 or equivalent
  - a schedule of the overpayment
  - copies of Decision Maker decisions on entitlement including the amount overpaid and recoverability of the overpayment, LT54 or equivalent
  - any other documents relevant to the calculation and recoverability of the overpayment
- any other benefit documentation relevant to the case

27. This is not an exhaustive list of the evidence required in prosecution cases. Other evidence may be required in individual cases such as details of permitted work.

## **Nominated Decision Maker statements**

28. Statements are required from the appropriate nominated Decision Maker (DM) to explain the process for obtaining benefit decisions only if the original decision is challenged following the first court hearing or the overpayment is more than £25,000 in Scotland and the offence relates to:

- Income Support
- Jobseeker's Allowance
- Employment and Support Allowance
- Incapacity Benefit
- Disability Living Allowance
- Personal Independence Payment
- Attendance Allowance
- Carer's Allowance

29. The DM is required to exhibit, in Scotland confirm that they will be able to speak to, the following:

- all information relevant to the overpayment. This must include:
  - a copy of the overpayment letter sent to the claimant, ORG7 or equivalent
  - a schedule of the overpayment
  - copies of the appropriate Decision Maker's decision on the amount overpaid and recoverability of the overpayment, LT54 or equivalent
  - any other documents relevant to the calculation and recoverability of the overpayment
- any other benefit documentation relevant to the case

### **England and Wales**

30. If the defendant elects to be tried in the Crown Court, the Prosecution or Defence may require the actual Decision Maker or nominated Decision Maker to give evidence about the overpayment. The Crown Prosecution Service (CPS) will advise the Counter Fraud and Compliance Directorate (CFCD) if this is required.

31. Statements are required from the relevant Decision Maker to explain the process they carried out when reaching their decision(s) or reassessment if the original decision is challenged following the first court hearing and the offence relates to benefits **other** than:

- Income Support
- Jobseekers Allowance
- Employment and Support Allowance
- Incapacity Benefit
- Disability Living Allowance
- Personal Independence Payment
- Attendance Allowance
- Carer's Allowance

#### **Scotland**

32. A statement is required from a nominated decision maker only if £25,000 or more of the total overpayment relates to one or more of the following benefits:

- Income Support
- Jobseekers Allowance
- Employment and Support Allowance
- Incapacity Benefit
- Disability Living Allowance
- Personal Independence Payment
- Attendance Allowance
- Carer's Allowance

33. The Decision Maker exhibits or produces the following:

- copy of the overpayment letter sent to the claimant, ORG7 or equivalent
- copy of the Decision Maker's decision, LT54 or equivalent
- schedule of the overpayment
- copy of their decision on recoverability

### **Carer's Allowance rebuttal statements**

34. A Carer's Allowance (CA) rebuttal statement may be required, if, during the Interview Under Caution (IUC), the claimant states they have informed the Carer's Allowance Unit (CAU) of the relevant change in their circumstances.

35. Using the Notes screen or page will allow the lead investigator to confirm that the change has not been reported and draft a rebuttal statement, if required.

36. The Counter Fraud and Compliance Directorate (CFCD) Team Leader (TL) or Higher Investigations Leader (HIL) can arrange for nominated investigators to have access to the appropriate CA screens.

37. The investigator should complete the UA15 and complete Section 2 with the following information:

- Section Name – As appropriate
- Workstation ID – As appropriate
- Action – Add
- Service – IAEB
- Caseload ID – **[Redacted]**
- Service Staff No – your staff number
- User Group – **[Redacted]**
- User Grade – N/A
- % Check – Leave blank

38. Once access has been given via the TL or HIL and the IT Service Manager, the investigator should access the relevant screens by taking the following steps:

Step	Action
1.	From your desktop access <b>Opstrat</b> .
2.	Select <b>Services</b> .
3.	Select <b>[Redacted]</b>
4.	Insert claimant's National Insurance Number (NINo) and select Dialogue 400. Select the <b>Shift</b> and <b>F6</b> keys together.
5.	Select appropriate number required to fully view any conversations.
6.	Select <b>Enter</b> to return to the main screen.

39. When all screens have been checked and no trace of the reported change is identified, the investigator must complete the MG11 rebuttal statement. See 06 Specimen Witness Statements - [Carers Allowance rebuttal statement](#).

## Other statements

### Local Authority or Her Majesty's Revenue and Customs

40. The Local Authority (LA) or Her Majesty's Revenue and Customs (HMRC) must exhibit or produce their own documents applying, National File Standard (NFS) guidance.

41. LAs must supply electronic copies of the following:

- overpayment decision; pages relating to decision only
- overpayment recovery letter; pages relating to overpayment only
- FPA4
- FPA5

42. None of the above documents are required to be exhibited or produced. LAs must complete an MG11 adhering to the specimen statement advised by DWP Legal.

43. The FPA4 and FPA5 must be obtained from the LA by the investigator, when appropriate to do so, and sighted only by the Team Leader (TL) or Higher Investigations Leader (HIL) prior to their authorisation of the case. These documents must not be forwarded onto the Digital Case Management Unit (DCMU) or Crown Prosecution Service (CPS).

44. In Scotland, the LA investigator will produce a statement explaining the Housing Benefit (HB) or Council Tax Benefit (CTB) (prior to 1 April 2013) process and overpayment, irrespective of the amount.

#### Non-departmental witness statements

45. Non-departmental witnesses exhibit other evidence, such as in a case where a claimant has failed to disclose employment. A statement is required from the employer in order to exhibit the wage statement.

## Other witness statements

46. Detailed rebuttals or other witness statements specific to the case may be required.

47. Rebuttal evidence is used to cast doubt on a defendant's evidence. An example of this would be where a claimant says they did not know that they were required to declare changes of circumstances. A rebuttal statement from a signing-on clerk could confirm that the claimant was informed in detail what the benefit conditions are and where appropriate gave them a leaflet about the matter.

## Examples of witness statements

48. Examples of the various types of witness statements can be found in:

- [Specimen Witness Statements \(England and Wales\)](#)
- [Specimen Full Process Statements \(Scotland\)](#)

49. These specimen statements must be used as a guide only for the required content. The information contained in the witness statement must be tailored to the specific requirements of the case.

## Completion of witness statements

### England and Wales

#### Completion of MG11

51. Where possible, [MG11 \(link is external\)](#) witness statements must be typed using double spacing. Password protection has been removed from the MG11, allowing officers to spellcheck the content prior to submission.

52. Officers must not amend or delete any of the official wording on the MG11 as the wording has been agreed with the Crown Prosecution Service (CPS) and is the standard that must be included for submission to the court.

53. Guidance on taking, drafting, and correcting witness statements can be found in [Witness Statements. \(link is external\)](#).

#### Completion of the MG11 - Part 2

54. The following information is required from all witnesses and must be recorded on the [MG11 - Part 2 \(link is external\)](#). This information must be completed at the time the statement is obtained and the witness statement must be issued as soon as possible.

55. Investigators must hold completed documents in the electronic evidence folder and submit with the first hearing:

- full name of witness. This must be the name they are currently known by. Nicknames or pseudonyms are not acceptable
- address. This can be either the witness' official address or home address. Statements provided by official witnesses which includes Counter Fraud and Compliance Directorate (CFCD) investigators, Local Authorities (LA) investigators and Decision Makers, need only contain the organisation as an address where it is thought that by doing so would create a risk to the officer's health and safety
- date of birth
- maiden name, former names or aliases they have used
- dates during the next six months when the witness will not be available. The non-availability dates are required to avoid a trial being arranged for an inappropriate date

56. CFCD investigators must consider the following and note the appropriate section on the form:

- would the witness have any special needs if required to attend court and give evidence?
- does the witness feel vulnerable or intimidated and need support from the Witness Service if required to attend court?

#### Completion of witness non-availability form MG10

57. Once all witness statements have been obtained, the [MG10 \(link is external\)](#) must be completed to show dates when key and non key witnesses are not available, should the case go to trial. The MG10 must also show whether a witness is key or non key by using K or NK.

## Scotland

58. Witness statements in Scotland are not used for exhibiting evidence but to inform the Procurator Fiscal (PF) of the productions that will be used to prove the offences and who will speak to the productions at a trial.

59. Witness statements must be completed on the [PF11\(S\) Part 1 \(link is external\)](#) and can be disclosed to the Defence. Part 2 is confidential material that **will not** be disclosed.

### Completion of the PF11(S) Part 1

60. The form is mainly self-explanatory but the following must be noted:

#### Section 1

- the Department for Work and Pensions (DWP) reference is the agency electronic report reference number. This will be completed by the Digital Case Management Unit (DCMU) or the Reporting Officer responsible for sending the report to the Procurator Fiscal (PF)
- the location, official witnesses only, section use, the office name or site you are based at
- the disclosable address can be an official or private address. Private witnesses can use a DWP address as a care of address if they wish

#### Section 2

- the date, time and place where the statement is compiled must be completed. If another investigator is present when the statement is compiled, their presence must also be recorded
- the source box must be completed as befits the circumstances. But investigators must verify their own statement
- when a statement has been compiled by telephone this must be noted in Section 3. In these circumstances the witness must read it, agree and amend it where necessary, before signing it
- at the end of the statement the witness must state whether they can recognise the suspected person and give a description if possible

### Completion of PF11(S) Part 2

61. [PF11\(S\) Part 2 \(link is external\)](#), which includes dates during the next 12 months when the witness will not be able to attend a trial, must be completed in full. This part of the PF11(S) is used by the PF when checking the reliability of the witness.

## Completion of Officer's disciplinary record - England and Wales only

62. Counter Fraud and Compliance Directorate (CFCD) officers and all other official witnesses who are employed by the Department for Work and Pensions (DWP) are required to complete the [MG6B \(link is external\)](#) form for all Not Guilty Anticipated Plea cases.

63. The following personal details are required:

- full name
- grade
- office location
- staff number

64. Details of any criminal or disciplinary matters recorded or pending must be declared. Details of any of the following should be recorded on the MG6B:

- criminal conviction or caution
- criminal proceedings that have not been completed
- disciplinary matters which have not been completed
- disciplinary findings

65. Details of the department's disciplinary policy can be found at [The Department and You - Disciplinary Policy](#).

### Purpose of MG6B and MG11 Part 2

66. The credibility of all witnesses is central to the system that operates in courts in England and Wales. Both the defence and the prosecution are entitled to know if any of the witnesses who are to give evidence in the criminal proceedings have previous convictions, cautions or bad character findings recorded against them. For example, disciplinary proceedings.

67. Where appropriate, DWP official witnesses, non-Counter Fraud and Compliance Directorate staff, must complete the [MG11 Part 2 \(link is external\)](#) and MG6B for each case. The MG11 Part 2 must be completed electronically and emailed to the Digital Case Management Unit (DCMU) with the case submitted. Information about witness availability dates on the MG11 part 2 is no longer required. Where the MG6B reveals that the officer has a disciplinary record, the Crown Prosecution Service (CPS) may verify the extent of the disciplinary findings by checking with the officer's Human Resources section if it is necessary to do so.

68. The MG6 must be completed for each not guilty case or for cases going to Crown Court and printed as a hard copy with a fresh signature and date and forwarded by secure post. See [Saving and submitting completed forms to Crown Prosecution Service](#) when the case has been noted on the Fraud Referral and Intervention Management System (FRAIMS) as having been sent to the CPS, linked by surname, forename and date of birth.

69. Prior to a trial, the Digital Case Management Unit (DCMU) carry out a check on all witnesses via the Police National Computer (PNC). In addition, a further check is undertaken by the CPS with the Human Resources section for departmental witnesses only.

70. The DCMU use the information provided on MG11 Part 2 to check the PNC. Without details of the witness' date of birth or former names there is a risk that incorrect records could be accessed.

71. MG11 Part 2 will not be disclosed to defence solicitors. The MG6B, and the information contained therein, will be treated in strictest confidence and the information on the MG6B will only be disclosed to the courts or to defence when the laws on disclosure apply.

#### **MG6B and MG11 Part 2 completion for CFCD staff**

72. All investigators are required to complete the MG6B on an annual basis. Completed forms must be sent by email to the Team Leader (TL) or Higher Investigations Leader (HIL) to be retained securely in an electronic format without a signature and date, so that the form can be printed off and signed and dated as required for each specific case.

73. In addition, the MG11 Part 2 must be completed in all cases.

74. It is essential that the CPS can be confident that the information provided on the MG6B is correct and up to date.

75. The CPS must be notified immediately of any changes in circumstances that render the information on the MG6B incorrect. This applies to criminal convictions, cautions or charges and misconduct outcomes and investigations that have arisen since the original information was submitted.

#### **Saving and submitting completed forms to the Crown Prosecution Service**

76. When saving completed forms, the follow naming convention must be applied; 'document name, surname (in block capitals), first name, job title'. For example: MG6B JONES Terence DWP Decision Maker.

77. Where appropriate, when submitting completed forms to the **[Redacted]** for your region, you must include the following case details within the body of the covering email:

- defendant's name
- the CPS Unique Reference Number (URN)

78. Completed forms will be treated as private and confidential.

#### **Submitting the MG6B form**

79. Appropriately signed and dated forms must be posted securely to the office dealing with the case at:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

80. The CPS will note the Case Management System (CMS) to confirm receipt and will store the forms securely.

## Witness lists

### England and Wales

81. Details of Key and non-Key witnesses should be supplied to the Crown Prosecution Service (CPS) using the Witness List [MG9 \(link is external\)](#).

82. The MG9 should not be copied to any person other than those detailed in this guidance, in general only to the prosecuting authority.

83. Before the MG9 is provided to the Witness Service, the right hand column showing details of previous conviction checks should be deleted. The order in which the witnesses are listed on the MG9 must be the same as the order in which the statements appear on the prosecution file.

84. The names of all witnesses must be recorded on the MG9. The Key Witnesses must be annotated with (K) and a Non Key Witnesses with (NK).

85. Key witnesses who have provided witness statements must be listed first with consecutively numbered entries in the **Statement No** column and a tick in **column 5**.

86. Non Key witnesses should be listed but the Statement No. and the tick box should remain blank. In the **Wit. No.** column, the investigator completing the form should enter **Vu** if the witness needs to be treated as vulnerable and or intimidated.

87. Where two or more statements have been taken from a witness, the number of statements must be indicated in the column headed **Statement No.** and a tick should be entered in the box in the next column where the statement is attached to the prosecution file.

88. The original signed statements or a typed version of a clerical statement, and the exhibit, must be included in all prosecution files.

89. The CPS is responsible for preparing a witness list without addresses if it is to be served on the defence.

90. Details of any witnesses that are the subject of a witness anonymity order or their statements will not be served on the defence.

91. An email address can be given by a witness, which may be their home or work email address and is included at the discretion of the witness concerned. A space to record their mobile telephone or pager number is also included.



### Updating the MG9 witness list

92. The witness list must be updated when:

- statements or additional statements are obtained from known witnesses
- additional witnesses have been identified after the current witness list was prepared

93. If there is a change to the details of a known witness a revised witness list must be prepared and submitted, headed **Revised Witness List**.

94. The revised list and any accompanying statements must be sent accompanied by the Further Evidence or Information Report [MG20 \(link is external\)](#), highlighting the new witnesses and or statements.

## Scotland

95. For completion of witness lists In Scotland, see [Guidance notes for PF13 completion](#).

### Witness non-availability

## Vulnerable witnesses

### Initial Witness Assessment - England and Wales

108. Completion of the Initial Witness Assessment, [MG2 \(link is external\)](#), is designed to help the investigator to inform the Crown Prosecution Service (CPS) of the information required to make an application for a special measures meeting and or special measures directions in cases where there are Vulnerable or Intimidated Witnesses (VIW).

109. A separate MG2 is required for each vulnerable or intimidated witness so that his or her circumstances can be considered separately.

110. An investigator who has knowledge of the witness' circumstances and is familiar with the guidance contained in [Achieving Best Evidence in Criminal Proceedings \(link is external\)](#) must complete the form.

111. The CPS must be notified of cases where there are VIWs so that consideration can be given to holding a special measures meeting at the earliest opportunity.

112. The implementation of the Youth Justice and Criminal Evidence Act (YJCEA) 1999 has introduced changes to the treatment of Youth and VIWs.

113. Interviews may be carried out on video-tape or other digital recording medium. Witness details and availability, however, must still be recorded.

114. The witness should be asked to give permission for the investigator to access medical records in relation to their injury or hospitalization, and for the use in the course of the prosecution, in case the court requires this information in order to make directions or orders under the special measures provisions of the YJCEA 1999.

115. Each of these questions requires a response and the witness must be required to sign to confirm their consent or otherwise.

116. The witness care information from the rear of the MG2 initial witness assessment must be entered on the [MG6 \(link is external\)](#) case file information form.

117. If the witness is the subject of an anonymity order, see [Witness Anonymity Orders](#).

### Notifying the Procurator Fiscal

118. If a witness is identified as potentially being vulnerable in Scotland for example due to their age, health or intimidation it must be mentioned on the [PF13 \(link is external\)](#) under **Other relevant information** in the **Case Details** section. This matter must then be included in the electronic report to the Procurator Fiscal.

## Exhibits and Productions

### Exhibit list - England and Wales only



1. The documents to be exhibited, when an upgrade request is made, must be listed on the exhibit list [MG12 \(link is external\)](#) in the same order as the witnesses appear on the [MG9 \(link is external\)](#).

2. This means the documents to be exhibited by the main investigator will be followed by the documents exhibited by each non-investigator witness, expert witnesses, other investigators and officer in charge as appropriate.

3. The MG12 must be completed as follows when a file upgrade is made:

- in the 'Reference Name/URN/NINo' box enter the operation name, URN and NINo. If appropriate, enter the FRAIMS reference number
- after 'R v' enter the name of the defendant
- the property reference number will only be appropriate if the exhibit was an item seized by the police following a search and seizure operation. This reference number relates to the police property store reference
- give a brief description of the exhibit such as 'Income Support claim form dated .....'. If the document is a copy of the original such as the overpayment letter enter 'copy' in brackets after the description. This must be identical to the description on the exhibit label
- the reference number will be the initials of the witness followed by a number, for example AB1, AB2, and must be the same as the numbers given to exhibits in the relevant witness statements and exhibit label
- in the box entitled name and its location, enter the name of the witness followed by the location of the original document which in most cases will be the evidence file. Original documents are normally retained in the evidence file and only copies attached to the prosecution file. Enter a cross in the end box when the original or a copy of the document is included in the prosecution file.

## Exhibit label procedure

With the increased service of evidence digitally, it is no longer necessary for DWP to provide exhibit labels to the CPS. However, exhibit labels must still be obtained and retained by affixing the label to the original exhibit, as they may be required at some point.

4. An exhibit label [EL1 \(link is external\)](#) must also be prepared for each document to be used as evidence. Copies (**not** the originals) of the exhibits must be marked with the exhibit reference on the top right corner of the document.

Where multiple documents in a single exhibit are to be presented to CPS as hard copies, they must clearly be marked 'Page one of XXX – etc', unless they are already clearly numbered and complete, such as with most bank statement submissions.

5. If they are obtained during the course of the investigation, they should be stored in the electronic evidence folder for the claimant, as they are not required in the initial case submission to the Crown Prosecution Service (CPS).

An exhibit is defined by case law as:

'A document or other thing shown to a witness and referred to by a witness in evidence (R v Lushington ex pOtto [1984] 1 QB 420)'.

Each exhibit must be identified by a label or other mark and sufficiently described in the statement to identify it. Identification must be made by the initials of the person who will produce the exhibit and a consecutive number. Thus, for example, the object or document would be marked with a label signed by AB reading:

'Exhibit AB1, referred to in the statement of [AB's name in full] dated [date]'; and the statement would include the words: 'I produce [object] marked AB1'; 'I produce a copy of the said [document] marked AB1'.

6. The EL1 is signed by the person exhibiting the document in their statement, for example, an EQ1 would be mentioned by the employer who signed the document.

7. Either a hand written signature or an electronic signature is acceptable.

8. If a hand written signature has been obtained on a clerical EL1, the document must be scanned back in to the system upon receipt in a Portable Document Format (PDF).

## **Productions - Scotland Only**

### **Definition of a Production**

9. This is a physical item that contains information intended to prove an element of an offence, for example; in a working case the productions could be:

- a benefit claim form to show that the accused has claimed benefit
- ES24s
- screen prints to show what benefit has been paid and how it was paid to the accused
- Decision Maker decisions to show the amount overpaid and recoverability
- wage statement / EQ1
- transcript of Interview Under Caution (IUC)
- INF4 to show that the accused was informed of what changes to declare

## **Schedule 8 Certificates - Scotland only**

10. All evidence productions must be certified under section 279, also referred to as Schedule 8, of the Criminal Procedure (Scotland) Act 1995.

11. The Schedule 8 certificate confirms that the information contained in the production is owned by a particular organisation or is a copy of information owned by them.

12. Schedule 8 certificates are required in addition to witness statements. Witness statements and Schedule 8 certificates should be obtained at the same time.

13. Each production referred to in a witness statement must be certified by a Schedule 8 certificate. It is not acceptable to certify a production by writing on the production itself.

14. The wording on the certificates is contained within Section 26.1 of the Act of Adjournal (Criminal Procedure Rules) 1996 and must not be altered.

15. The certificates used are numbered 26.1 followed by A or B to denote the category and will then be followed by a number to denote the type.

16. The certificate style and name is specified by legislation, and provides ease of identification by the Procurator Fiscal (PF) and other criminal justice organisations.

### **Who should sign these certificates**

17. It is the information contained within the document that is certified not the document itself.

18. Where original/copies of documents are owned by the Department for Work and Pensions (DWP), such as claim forms/screen prints, the certificates will be signed by the investigator.

19. Where original/copies of documents are owned by the Local Authority (LA), the certificates will be signed by a representative designated by the LA. This could be the investigator.

20. Some forms used for obtaining information, such as an EQ1, are owned by the Department for Work and Pensions (DWP) but the information they contain, once completed, will be owned by a third party organisation such as an employer, the certificate must be signed by a representative of the third party organisation who owns the information.

21. A representative of a third party organisation will certify documents provided by them and this must be someone who has access or control of the original documentation. For example, if the information is wages records a wages clerk may be authorised to certify it if they have access to the payroll information for the company which also includes the information provided.

## **Schedule 8 - Categories of certificate**

22. There are two categories of certificates that will be appropriate for use in DWP prosecutions. Each category contains individually numbered certificates that will be used in differing circumstances.

### **Category 26.1-A certificates**

23. 26.1A certificates must be used when the document or the information provided is a copy:

- of a whole document
- of part of an original document
- of information held.

24. 26.1-A certificates are used by all organisations who provide copy documents or copies of information to certify that the documents or information provided are copies of originals held by that organisation.

### **Types of 26.1-A certificates**

25. There are different certificates for single and multiple documents as follows:

- [26.1-A9 \(link is external\)](#) for a copy of a single document. This will be certified by a representative of the organisation that owns the original and are used by both an undertaking organisation, DWP or LA, and third party organisations, such as, employers, banks, or credit agencies
- [26.1-A11 \(link is external\)](#) for copies of multiple documents and will be certified by a representative of the organisation that owns the original and are used by both an undertaking organisation and third party organisations
- [26.1-A20 \(link is external\)](#) is used to certify a copy which is only part of the original. For example, wages records for a particular claimant will only be an extract from the full payroll.

### **Category 26.1-B certificates**

26. 26.1-B certificates must be used when the production or information provided is an original document or original information and not a copy.

27. If the document or information provided is a copy of the original both a 26.1-A and 26.1-B certificate will be required. If the document or information provided is an original, only a 26.1-B certificate will be required

28. 26.1-B type certificates are divided into two groups:

- those to be used for documents or information owned by the organisation or organisations who have a direct interest in the prosecution which for benefit offences would be DWP and/or the LA. These organisations are referred to as 'an undertaking'
- those to be used for documents or information owned by third parties such as employers, banks, or credit agencies.

### **Types of 26.1-B certificates**

29. There are different certificates for single and multiple documents as follows:

- [26.1-B1 \(link is external\)](#); for original single documents owned by an organisation other than DWP or LA
- [26.1-B2 \(link is external\)](#); for original multiple documents owned by an organisation other than DWP or LA

- [26.1-B3 \(link is external\)](#): for original single documents owned by an undertaking, such as, DWP or LA
  - [26.1-B4 \(link is external\)](#): for original multiple documents owned by an undertaking, such as, DWP or LA.
30. The table below gives more information.

Document	Certificate	Sample Endorsement	Signatory
Original benefit claim forms	26.1-B3		Investigator
Benefit screen prints	26.1-B4 and 26.1-A11		Investigator
Overpayment documents, including DM Decision and copy of ORG7	26.1-B4 and 26.1-A11		Investigator
EQ1 including inserts:  Full period of employment	26.1-B1 and 26.1-A9	Both certificates: "Wage details in respect of xxx for the period xxx to xxx"	Employer / EQ1 witness
EQ1 including inserts:  Part period of employment	26.1-B1 and 26.1-A20	Both certificates: "Wage details in respect of xxx for the period xxx to xxx"	Employer / EQ1 witness
Copy of starter form or other HR forms  Single documents	26.1-B1 and 26.1-A9  for each document	Copy of Form xxx dated xxx in the name of xxx	Employer / Witness who supplied the documents
Copies of starter forms or other HR forms  Multiple documents	26.1-B2 and 26.1-A11	List Documents:  Copy of Form xxx dated xxx in the name of xxx  Copy of Form xxx dated	Employer / Witness who supplied documents

		xxx in the name of xxx	
Copy of credit card, store card or loan application	26.1-B1 and 26.1-A9	Copy of application for xxx in the name of xxx dated xxx	Finance / Company witness
Copies of credit card, store card or loan applications Multiple documents	26.1-B2 and 26.1-A11	List Documents:  Copy of application for xxx in the name of xxx dated xxx  Copy of application for xxx in the name of xxx dated xxx	Finance / Company witness
Bank statement Single account	26.1-B1 and 26.1-A20		Bank witness
Bank statements Multiple accounts	26.1-B2 and 26.1-A20	account number xxxx account number xxxx account number xxxx	Bank witness
Letter from social work - Children in care	26.1-B3		Social Worker
HB/CTB claim form Original	26.1-B3		Local Authority
HB/CTB claim form Scanned image	26.1-B3 and 26.1-A9		Local Authority
HB/CTB claim form Other copy	26.1-B3 and 26.1-A9		Local Authority

### Other certificates

31. There will be occasions when the Procurator Fiscal (PF) requires additional information which may also require a different certificate to those used by this department.

32. The Central Prosecution Team (CPT) will return the file to the investigator in these cases with an explanation of the information and details of the certificate required.

## **What are single and multiple documents**

### **Single documents**

33. A single document is a single page or several pages that form part of the same production. For example:

- a benefit claim form that contains several pages
- an EQ1 that contains several pages of wage records
- a starter form from an employer that contains several pages along with Human Resource records for the same period of employment
- a bank statement that contains several pages but is for the same account.

### **Multiple documents**

34. Multiple documents are where several documents that can be produced as one production. Examples of this are:

- all the screen prints relevant to the overpayment period
- all the overpayment documents, overpayment schedule, Org7 and DM decisions, relevant to the period of the fraud
- all the starter forms from the same employer when the claimant has had more than one period of employment for the same employer
- bank statements when the claimant has more than one account with the same bank.

## **Productions that are not paper documents**

35. Non paper items such as Compact Discs (CD) of Interviews Under Caution should not be produced or certified unless requested by the PF.

36. They would then be certified by the investigator as a labelled production. Initially it is acceptable to provide the PF with a summary of the interview or a document as appropriate.

## **Documents that do not require certificates**

37. Documents that are certificates in their own right such as birth, marriage and death certificates do not require an additional Schedule 8 certificate.

# **06 Taken Into Consideration Schedule - England and Wales only**

## **Taken Into Consideration Schedules**

1. The court can only consider and sentence the defendant on the offences for which they have been convicted and those offences the defendant has accepted in the Taken Into Consideration (TIC) Schedule [MG18 \(link is external\)](#).

2. TIC schedules:

- allow the court to take other offences into consideration when passing sentence
- enable the Department for Work and Pensions (DWP/Local Authority (LA) to put the whole of the fraud before the court.

3. When preparing the MG18 for the Crown Prosecution Service (CPS), include all the offences for the whole overpayment period, except those already selected as charges. Do not complete the offences column, as CPS will do this.

4. When a continuing summary only offence has been selected, for example, S112(1A), and a portion of that offence is time barred, the time barred element can be TIC'd, but it must be noted that as these offences are time barred the court may not allow the TICs to be put to the defendant.

5. Ideally TIC offences should follow in date order, even where they are for different benefits. If this is not possible, list the offences for each benefit consecutively using sequential numbers, for example, 1-100 IS, 101-200 DLA, 201-300 HB, 301-400 CTB. The offences should appear on one MG18 TIC schedule.

## **Dates of offence**

6. The actual dates of TIC offences are often a matter of conjecture as the information is not always available, for example, when cashed cheques are not available. In these circumstances use the:

- expression 'on or about [date]'
- claimant's benefit day
- date of encashment/presentation where it is known
- date the cheque left the office, for cheque cases
- in JCP24 cases ascertain intervals of signing, the offence for TIC being on the day of signing.
- an example of a declaration in Local Authority (LA) cases could be a signed rent allowance cheque.

7. In weekly paid cases, show the weekly overpayment on a MG18. In fortnightly or monthly paid cases, show the fortnightly or monthly overpayment.

8. There should be a TIC or charge date and amount for each false declaration made by the defendant during the period of offence, for example, if the defendant signed for a four-week period when the Jobseekers Allowance (JSA) was covered by Christmas, this should be treated as one TIC and the amount should cover the four weeks.

9. If due to a Bank Holiday the defendant cashed two payments on the same day, this should be treated as two offences. This is because two false declarations have been made, albeit on the same day for different periods.

## **07 Police arrest case - England and Wales only**

In cases where a suspect has been arrested, a Police Custody Record should be obtained from the Custody Officer. If the Custody Officer will not release this to the investigator, inform DCMU by annotating the body of the e-mail when sending the case file. The investigator must also note this on the MG6 in section 9 – Notes to Advocate. An NPA01 must also be included as Digital Case Management Unit (DCMU) require it for their Police National Database (PNC) check.

## **MG4 charge sheet**

In police arrest cases, the investigator may be requested by the police to assist in completion of the MG4 police charge sheet. It is important, therefore, for investigators to be aware of the information required when completing the MG4.

The left hand column of the MG4 contains details of the charges numbered in order. Any additional charges arising from the same incident or investigation but preferred later, must still be numbered in order on a continuing basis; for example, charges 1, 2 and 3 were preferred but two additional charges are brought three weeks later arising from the same investigation. These charges would be numbered 4 and 5.

The remaining box is used to record the grant of unconditional bail only. A police form MG4A is completed where conditional bail is granted.



Details of an interpreter are entered in the box at the top of the form and must clearly indicate the interpreter's name and language/dialect.

Additional charges must be marked 'Additional Charges' at the head of the MG4 and, where appropriate, submitted to the Crown Prosecution Service (CPS) under cover of the Further Evidence/Information Report [MG20](#).

It is important that the numbering sequence for the charges in the left hand column is continued from the first charge sheet.

Entries must be clear and legible. A review of the case cannot be carried out unless the precise wording of the charges/summons is known.

## Conditional bail

Police form MG4A is used by the police Custody Officer granting bail, to record details of any bail conditions or details of any variation to bail conditions.

## Additional information required in police arrest cases

Special category cases, such as persistent offenders or those re-offending on bail, must be highlighted on the Case File Information form ([MG6](#)) to ensure that they are given priority by the prosecution and the courts and to assist in ensuring that relevant factors are brought to the attention of the court during bail hearings and the trial process.

Investigators must be aware if the defendant is on bail for other offences, as advised by the police on the MG4A. If appropriate, record bail details on the:

- [CD1](#)
- MG6
- Phoenix print outs, and
- remand application, if applicable, in support of a remand in custody/conditions application.

11. If enquiries reveal the defendant is on bail and details are not shown on a printout of previous convictions, complete the MG6 case file information form with the:

- date bail was granted and from which court/police station
- date to which bailed and to which court/police station, if different from above
- charges
- conditions of any bail.

12. Where information has been submitted to CPS, for example an advice file for a legal opinion, investigators must endorse the MG6, complete form CD1 and note FRAIMS, see [FRAIMS guidance – Obtaining Legal Advice](#).

13. In Counter Fraud and Compliance Directorate Criminal Investigations cases, where a case involves more than two defendants, further CD1s are required. The other defendants must be recorded in the 'associated cases' section.

14. In Criminal Investigations cases the ethnicity code determined by the Police National Computer (PNC) must be recorded on the CD1.

15. When someone appears in court on the same day or the day following arrest it may not be possible to fully prepare the prosecution file, for example the Taken In Consideration (TIC) schedule. In these circumstances the prosecutor asks the court for an adjournment.

## 08 Remand applications - England and Wales only

### Remand applications

1. A separate [MG7 \(link is external\)](#), Remand Application Form, should be completed and retained on the prosecution file for each defendant, for whom a remand in custody or conditional bail is sought. The document may be handwritten providing that it is legible.

2. In arriving at its decision to either remand the defendant or impose bail conditions the court considers:



- the nature and seriousness of the offence
  - the probable sentence
  - the defendant's antecedents and previous convictions
  - the defendant's associations and community ties
  - the defendant's record of the fulfilment of obligations under previous grants of bail
  - the strength of evidence against the defendant
  - any other relevant factors.
3. Any detail or information under these headings, which is not evident in existing documents within the prosecution file, should be included in the remand application form.
4. Bail may be granted despite the application for a remand in custody, therefore the investigator should consider the possibility of instructing the prosecution advocate to apply for bail conditions.
5. There is a presumption in favour of granting bail to defendants in criminal proceedings. If investigators are seeking to oppose the grant of bail they must provide the prosecution advocate with compelling reasons if an application to oppose the grant of bail is to succeed.

### **Failure to surrender**

6. Consider the following to determine whether there is a risk of the defendant absconding:

- any prior conviction for absconding
- no fixed abode
- no community ties or is a foreign visitor
- the probable sentence would give the defendant every incentive to abscond
- the defendant has given an indication of an intention not to attend court.

### **Offences committed whilst on bail**

7. If a Police National Computer (PNC) check indicates, or police advise, that the present offence was committed whilst on bail or in breach of a suspended sentence or other current sentence, particularly where it was for a similar offence, note the precise details of previous charges, court and investigating authority.

8. The following observations should also be noted:

- if the number of charges/Taken Into Consideration (TIC) and previous convictions reveal persistent and continuous offending over a period of time
- if the defendant admitted an intention to continue committing offences
- if the lifestyle of the defendant is such that it is likely that further offences will be committed
- if the defendant committed offences to support an addiction, for example, a drug habit
- if there is evidence that the offence involved substantial planning by the defendant.

### **Obstruction of the course of justice and/or interference of witnesses**

9. If the defendant has interfered with witnesses, or there is a risk that they will do so, or there is a risk that they could interfere with accomplices this should be noted.

### **Health and safety**

10. The following health and safety details must be recorded:

- details of threats by the defendant of self-harm
- details of the defendant's mental history that suggests self-harm may occur
- clear declaration of revenge by victims' relatives, friends/associates or conduct, which clearly shows such an intention.

### **Remand on conditional bail**

11. Where conditional bail is sought, the reasons for the conditions as well as the supporting evidence should be supplied to the prosecution advocate.

12. The court may only impose conditions if they are necessary to ensure the defendant:

- attends court or surrenders to bail
- does not commit further offences while on bail

- does not interfere with witnesses
  - does not obstruct the course of justice.
13. Where the recommendation is for conditional bail there must be a genuine risk of one of these factors occurring in relation to each defendant for whom a recommendation is made.
14. It is possible to appeal against the granting of conditional bail, under the Bail Act 1976 and the Bail (Amendment) Act 1993 as amended by the Criminal Justice Act 2003.
15. This must be done in Court immediately and the appropriate paper work submitted to the Magistrates within two hours, usually available from the Crown Prosecution Service (CPS) Office in the Court.
16. Prior approval to appeal against the granting of bail must be obtained from a CPS lawyer beforehand.
17. Full details must be given to justify each of the grounds supported by evidence. This evidence and the reasons underlying any decision to grant or oppose bail must be clearly recorded.
18. In order to allow defendants who have been jointly charged to be dealt with at the same court appearance, give details of co-defendants court dates in this or any other outstanding cases.
19. The form is a restricted document but a copy may be given by CPS to a Probation Officer to supply information for bail information schemes. Confidential information that should not be disclosed to the Probation Service should not be included on this form but should appear on the [MG6 \(link is external\)](#), Case File Information.
20. Where the case involves a breach of bail conditions it is not necessary to repeat details of the breach on a Remand Application, as these are entered on the police form MG8.
21. A Remand Application [MG7](#) is not required for a remand on bail without conditions.
22. Where a warrant has been executed relating to the appearance in court, this should be stated together with the manner in which the defendant has now appeared, for example, following further arrest or in voluntarily answer to that warrant.

## 09 Case File Information - MG6

### Completion of MG6

1. The [MG6 \(link is external\)](#), Case File Information, is to be completed on all cases submitted to the Crown Prosecution Service (CPS) in England and Wales only.
2. Its purpose is to inform the prosecutor of all relevant background information, much of which may well be confidential, for an effective case review.
3. It also assists the prosecutor in considering the evidential and public interest criteria in The Code for Crown Prosecutors.
4. This MG6 should be completed on all cases and provide the following details:
  - forensic evidence
  - visually recorded evidence held
  - disclosure issues, under Criminal Procedure and Investigation Act (CPIA) 1996
  - witnesses, outstanding witness statements, Section 5D
  - other offenders
  - public interest
  - Financial Investigation Unit (FIU)/Proceeds of Crime Act (POCA) 2002
  - additional information / Notes to Advocate.
  - any known previous surnames, forenames, nicknames, or aliases.
5. On completion, the MG6 should be included in the e-mail to the CPS, via the Digital Case Management Unit (DCMU), for sight of the lawyer only, not disclosable.

6. Consider whether a special measures meeting is required regarding Vulnerable or Intimidated Witnesses (VIW) in accordance with the Youth Justice and Criminal Evidence Act (YJCEA) 1999. This includes witnesses who it is felt may be unwilling to attend court because of fear or distress about testifying.

7. Where any VIW have been identified, the [MG2 \(link is external\)](#) Initial Witness Assessment must be completed and submitted to the prosecuting authority.

8. The investigator also needs to consider if there is any requirement for an application to be made to the court for 'special measures' directions under Sections 19 to 22 of the YJCEA 1999.

9. Other issues that must be raised are outlined below. This is not an exhaustive list and should be tailored to suit the needs and requirements of each vulnerable or intimidated witness:

- identify any adult witnesses or victims who may be vulnerable or have special requirements, for example, Department for Work and Pension (DWP) staff in fear of reprisals
- include details of any work progressing with such persons
- in the case of a witness who lives abroad, the CPS should be provided with a contact number for use in emergencies.

10. In cases where witnesses have particular requirements when attending Court, the investigator should record these and mention any arrangements they have made for dealing with them. Such needs may arise out of a witness's circumstances. For example:

- arrangements may be made for transportation to the courtroom – all cases
- record any difficulties which witnesses have in expressing themselves, for example, through difficulties in language or mannerisms - all cases
- indicate the measures taken to address the special requirements of vulnerable witnesses, in particular those with learning difficulties or the less physically able, such as the attendance of key support workers and any special measures that have been adopted to obtain witness statements
- record any request for stand-by arrangements, such as, permitting witnesses to wait at known locations near the court where they can be contacted by telephone, or arrangements for the use of pagers to call witnesses
- record whether an early special measures meeting should be held between the investigator and the CPS to consider 'special measures' under the YJCEA 1999.

11. If the witness is under the age of 17 and therefore classed as a juvenile, advice must be obtained from the CPS on how to proceed. Details of the request for the legal opinion must be recorded on FRAIMS, see [FRAIMS guidance – Obtaining Legal Advice](#).

12. State the names of any witnesses who have refused to make a statement and any reason or opinion as to why they refused.

13. Briefly detail any evidence the witness could give as this might become relevant in cross-examination should he/she be called as a defence witness. Care should be taken in determining the evidence these witnesses may hold and whether it may be prejudicial to the prosecution case or support the defence case.

14. Comments should be made about the strengths and weaknesses, where applicable, of the witnesses. These may include:

- nervousness or reluctance to give evidence
- they are a friend or relative of the defendant
- anti-prosecution
- very old or very young, forceful, or
- would make an impressive witness.

15. Details of any evidence the investigator has excluded from the prosecution file because of doubt as to its admissibility or relevance should also be included.

16. Particular care must be taken here due to the nature of such material, which may be disclosed under the Criminal Procedures and Investigations Act (CPIA) 1996.

17. Where a defendant has failed to answer questions about material facts, either adequately or at all, give details of any matters that may have an impact on the evidential value of such failure. In particular:

- the defendant's demeanour, psychological state, physical state or ability to comprehend the situation
- anything that was said to them prior to the interview, concerning the right to remain silent, other than caution
- anything that was said to the investigator outside the interview, that may provide an innocent explanation for silence
- any request by the defendant after the interview, to clarify what they had said.

18. Record the requirements of any professional or expert witness in the case, for example, preferences for time or day of the week for attendance, or the need for further consultation with other experts. Note their availability for any 'stand-by' arrangement.

19. The need for interpreters or other special assistance for witnesses should be detailed, together with details of the actions taken and arrangements made.

20. Identify the exact dialect/language the witness requires, for example, Cantonese or Mandarin and not Chinese or in the case of persons who are hearing impaired, whether British Sign Language, English interpreters or lip speakers are required.

21. Include previous convictions/allegations/queries against the defendant with similar Modus Operandi (MO)

22. The following points should be included where relevant:

- where known, any previous complaints made against the offenders which may have resulted in convictions/acquittals or withdrawal of the complaint or no further action
- previous convictions recorded against the offender relating to similar offences, for example showing the same or similar MO
- any information or opinions about the offender's previous conduct which, when viewed in light of the present allegation, may warrant a bind-over as an additional order.

23. Where further offenders are being sought, any information concerning these enquiries and the anticipated timescales should be recorded.

24. If the defendant has been charged and identity (ID) issues have yet to be resolved, an estimate should be given of the anticipated length of time before the ID procedure can be conducted.

25. Any difficulties encountered when arranging the procedure, including the reason why any procedure was cancelled or postponed, should also be detailed. ID procedures carried out through video technology are normally much quicker to arrange than an ID parade.

26. Give details of persons involved in the same incident that may or may not be co-defendants but who have been charged and will be connected to this prosecution file at a later date or are to be dealt with separately.

27. Give details of all individuals who have been arrested and granted police bail and who are likely to be charged with an offence connected with this prosecution file.

28. In addition, give details of those who may have been charged with an ancillary or unrelated offence but are likely to be further charged with a joint offence or one related to this prosecution file.

29. Where a person involved in the same incident has been cautioned or given a final warning/reprimand, give brief details of that person and the reason why this course of action was taken rather than a prosecution.

30. Note whether there is likely to be media interest either locally or nationally or where a high profile has been given to a particular investigation or operation.

31. Give details of any multi-agency partnership work on the offences charged, see [Publicising Investigation Outcomes](#).

32. Where the defendant has benefited from their criminal conduct there is the opportunity for the prosecution to make an application for a confiscation order.

33. This involves the case being referred to the Financial Investigation Unit (FIU), that are responsible for preparing the necessary papers to obtain a confiscation order and if necessary a restraint or receivership order. Referral of the case to the FIU must be recorded on FRAIMS, see [FRAIMS guidance – Financial Investigation Unit](#).

34. The Officer In Charge (OIC) needs to supply the FIU with information regarding the details of the case, the defendant's lifestyle, including their previous convictions, details of any assets he/she owns or gifts that they have made to others, as well as details of the benefits that he/she has made from the offence.

35. The investigator must complete an [FIU1 \(link is external\)](#) and send to the appropriate FIU office.

36. Consider, in consultation with CPS, whether any other applications are required, such as forfeiture or destruction orders. If such an order is applicable, the relevant boxes at the base of the case summary must be completed.

37. The following areas should also be considered when completing the [MG6 \(link is external\)](#) and commented on where applicable, in all cases:

- the names of persons who are witnesses for the prosecution but who were in some way involved in the offence and could therefore be classed as accomplices
- details of other persons who are not co-defendants on the prosecution file but who were arrested and not charged or summonsed. State the reasons for this, for example, insufficient evidence or enquiry continuing
- CPS may be informed of any conduct by non-Counter Fraud and Compliance Directorate (CFCD) witnesses that are particularly praiseworthy. This enables the prosecutor to inform the court.

## 10 Prosecution File Preparation completed

### Final email assembly checks

The investigator must email the case to the Team Leader (TL) or Higher Investigations Leader (HIL) for a final file check. When doing so, make sure all appropriate documentation is present on file and each document is completed to the appropriate standard and free from error. The case must not exceed 7,000kb in size.

Recommended construction of the email should flow as follows: CD1, MG5, MG6, MG9, MG10, MG11, NPA01 (England and Wales). Overpayment documents, Exhibits, Disclosure Schedules SDC1 (GAP), SDC2 (NGAP), SDC3 (NGAP). \*Only 1 of the 3 can be used per case, MG6D, MG12. Crown Court cases include MG6C, MG6D, MG6E and EL1. **Note: no blank pages on any documents, where constructed parts are used outside of a DRS PDF.**

When the prosecution file preparation has been completed and the TL or HIL has approved the file for referral to the Digital Case Management Unit (DCMU), the TL or HIL must complete the case on the Fraud Referral and Intervention Management System (FRAIMS) by:

- making sure all activities and attachments, unless direct communication with the prosecuting authority, are unrestricted
- updating the **Case Stage to Prosecution Prep**
- updating the **Case Outcome to Prosecution**

- at this stage, leave the **Date of Outcome** blank. This must be completed with the date when we become aware of a requisition being issued

The TL or HIL associates the following to the case:

- DCMU Single Point Of Contact (SPOC), or Inbox, as advised locally
  - Counter Fraud and Compliance Directorate (CFCD) SPOC, as advised locally.
- In all cases, the TL or HIL emails the case directly to the DCMU (England and Wales).

See: [FRAIMS guidance - Sending the File to the DCMU/Central Prosecution Team \(CPT\)](#).

### **Unique Reference Number (in England and Wales only)**

Before the case is sent to the DCMU for submission to CPS a URN must be generated, for which a distributed Excel tool has been supplied. A CFCD URN is only required for new cases, and not for those already with CPS which will have one generated by them.

The URN is only required to be shown in the email subject header as per [Key notification agreed subjects headers \(link is external\)](#). There is **no** requirement to enter this number within any of the submission forms.

There is likewise **no** requirement to enter any URN details into FRAIMS.

### **Procurator Fiscal - Scotland**

The Investigating Officer, Local Service Investigator (LSI) sends a report with copies of witness statements to the Procurator Fiscal (PF) via the Scottish Reporting Agency web site **Specialist Reporting Agency Web System (SRAWEB)**.

### **Sending files to the Crown Prosecution Service**

All cases must be emailed to the Crown Prosecution Service (CPS) via the Digital Case Management Unit (DCMU), using the appropriate subject header and security classification. Clerical files are no longer acceptable. See: [Key notification agreed subject headers](#).

### **Sending files subject to a witness anonymity order**

It is recommended that whenever possible files that are subject to a witness anonymity order must be emailed using the appropriate security classification for such a case.

### **Further evidence or information report - England and Wales only**

12. When further information or evidence is sent to the Crown Prosecution Service (CPS) after the submission of a prosecution file, it must be forwarded with the [MG20 \(link is external\)](#), Further Evidence or Information, which must include the case number.

13. Any necessary additional information may be attached to the email, with the Unique Reference Number (URN) if known, clearly shown in the body of the email for ease of linkage.

### **Key notification agreed subject headers**

Stage	Whose	Subject header	Body of e-mail
<b>Multiple Emails</b>	<b>All</b>	<b>As required with 1of2, /2of2/ and so on, added at the end of the header.</b>	<b>As specifically required.</b>
Email to Digital Case Management Unit	Team Leader (TL) or Higher Investigations Leader (HIL) or	Official Sensitive / Name / URN / New Prosecution File / CFCD Region /	All appropriate documents.



(DCMU)	Deputy	FRAIMS No.  Where appropriate add CCI to subject line.	
Email to DCMU - Central Criminal Investigation (CCI) cases charged in custody and court date held	TL or HIL or Deputy	Official Sensitive / Name / URN / New Prosecution File/ CCI / FRAIMS No / Add Court hearing date.	All appropriate documents.
Email to DCMU, then CPS	Investigator / TL / HIL to DCMU, DCMU to CPS	Official Sensitive / Name / New Prosecution File/ CCI / FRAIMS No / Add "Restraint" (if appropriate).	All appropriate documents, where a restraint order is in place.
DCMU action plan	DCMU to Investigator / TL / HIL	Official Sensitive / Name / URN / New Prosecution File / CFCD Region / FRAIMS No.	Please see attached DCMU RAG action plan. Please resubmit when actioned.
DCMU action plan	Investigator / TL / HIL to DCMU	Official Sensitive / Name / URN / Resubmitted File / CFCD Region / FRAIMS No.	Correction done.
Email to Crown Prosecution Service (CPS)	DCMU to CPS Inbox <b>[Redacted]</b>	Official Sensitive / Name / URN / New Prosecution File / CFCD Region / FRAIMS No / Number of pages 1 of 1 and so on.	New NFS case for prosecution.  Claimant's name.

Correction required	CPS to DCMU	Official Sensitive / Name / URN / Correction Required / New Prosecution File / CFCD Region / FRAIMS No / No of pages attached.	Forward e-mail on with all attachments and list corrections required.
Correction required	DCMU to Investigator / TL / HIL	Official Sensitive / Name / URN / Correction required / New Prosecution File / CFCD Region / FRAIMS No / No of pages attached.	Correction required. Please resubmit when actioned.
Correction completed	Investigator / TL / HIL to DCMU	Official Sensitive / URN / Correction Complete / Resubmitted .  Prosecution File / CFCD Region / FRAIMS No / No of pages attached.	Correction complete.
Rejected case	CPS to DCMU	Official Sensitive / Name / URN / MG3 – NFA / FRAIMS No.	MG3 attached including URN and 28 day destruction date.
	DCMU to Investigator / TL / HIL	As above.	File forwarded to TL / HIL for consideration.
Challenged case to ask for reconsideration	TL or HIL to DCMU	Official Sensitive / Name / URN / MG3 – NFA / Resubmitted / FRAIMS No.	Reason for challenge.



	DCMU to CPS <b>[Redacted]</b>	Official Sensitive / Name / URN / MG3 – NFA / Resubmitted / FRAIMS No.	Challenged case for your consideration.
Further evidence / Action Plan (MG3)	CPS to DCMU	Official Sensitive / Name / URN / MG3 / Add action plan review date / FRAIMS No.	MG3 Action Plan attached including URN.
	DCMU to Investigator / TL / HIL	Official Sensitive / Name / URN / MG3 / Action plan review date / FRAIMS No.	Action plan attached from CPS please return all requested documentation to DCMU by [Add Date].
	Investigator / TL / HIL to DCMU	Official Sensitive / Name / URN / MG3 / Action plan review date / FRAIMS No.	MG3 attached  All actions completed – if not please give reason.
	DCMU to CPS <b>[Redacted]</b>	Official Sensitive / Name / URN / MG3 / Action plan review date / FRAIMS No.	Evidence as requested.
Arrest Summons Number (ASN) process	CPS to DCMU	Official Sensitive / Name / URN / MG3 – ASN / Court date / FRAIMS No.	MG3 attached  (which includes Court, Date of Hearing / Charges including SS Codes).
	DCMU to Investigator / TL / HIL	Official Sensitive / Name / URN / MG3 - ASN / Court date / FRAIMS No / Local Authority (LA)	Claimant's name and FRAIMS No.  Please supply details of LA overpayment.

		overpayment only required.	Complete attached overpayment proforma.  Attach Overpayment Template/Proforma.
	Investigator to DCMU	Official Sensitive / Name / URN / MG3 – ASN / Court date / FRAIMS No / LA overpayment obtained.	LA Overpayment details enclosed.  Attach Overpayment Template/Proforma.
	DCMU to CPS ASN inbox <b>[Redacted]</b>	Official Sensitive / Name / URN / MG3 – ASN completed / FRAIMS No.	Current Address details.  ASN.  Attach Overpayment Template.
Requisition	CPS to Court  Copy to DCMU	Official Sensitive / Name / URN / Requisition / FRAIMS No.	Requisition attached to email and FRAIMS No included in body of email.
File upgrade	CPS to DCMU	Official Sensitive / Name / URN / Upgrade file Request / Type of hearing / Add review date / FRAIMS No.	MG3 / Police Memo / Case Management Document.
	DCMU to Investigator / TL / HIL	Official Sensitive / Name / URN / Upgrade file request / Type of hearing / Review date / FRAIMS No.	MG3 File Upgrade attached from CPS please return all requested documentation to DCMU by [Add BF date].

	Investigator / TL / HIL to DCMU	Official Sensitive / Name / URN / Upgrade file completed / Type of hearing / Review date / FRAIMS No.	MG3 attached.  All actions completed – if not please give reason.
	DCMU to CPS REVIEW Inbox <b>[Redacted]</b>	Official Sensitive / Name / URN / Upgrade file completed / Type of hearing / FRAIMS No.	Evidence as requested in MG3.
Change of circumstances, including warrants	Investigator to CPS Inbox <b>[Redacted]</b>	Official Sensitive / Name / URN / CoC notification / FRAIMS No.	Details of change of circumstances, for example, new address.
Warrant cases	CPS to DCMU	Official Sensitive / Name / URN / Warrant Issued / FRAIMS No.	Type of Warrant and date issued.
Results / Outcomes	CPS to DCMU	Official Sensitive / Name / URN / Client Prosecution Report / FRAIMS No.	Client Prosecution Report template attached.
Discontinued cases	CPS to DCMU	Official Sensitive / Name / URN / Client discontinuance Notice / FRAIMS No.	Client Prosecution Report and the Client Discontinued template attached to e-mail.
Early investigative advice on complex cases	TL / HIL toCPS Inbox <b>[Redacted]</b>	Official Sensitive / Name / URN / Advice File / FRAIMS No.	Reason advice required.

(Point of law only)	CPS to DCMU to TL or HIL	Official Sensitive / Name / URN / Advice Provided / FRAIMS No.	MG3A with required advice attached.
	FIU to DCMU Central Admin Inbox <b>[Redacted]</b>	Official Sensitive / Name / URN / Confiscation S 70 Notice attached / FRAIMS No.  NB: Needs to be at least seven days in advance of the first hearing so that a lawyer can review, and include this instruction when sending papers to CPS Advocate.	Details re: confiscation notice / further information if appropriate.
	CPS to FIU (Direct to investigator)	Official Sensitive / Name / URN/ Confiscation issues / FRAIMS No.	Sent from CPS Review Inbox – direct FIU to Review team.  Any requests regarding confiscation, etcetera.
TL or HIL Request for charging advice	TL / HIL to DCMU to CPS <b>[Redacted]</b>	Official Sensitive / Name / URN / Pre-charging advice / Bail date / FRAIMS No.	
Provision of Charging advice	CPS to DCMU to TL / HIL	Official Sensitive / Name / URN / MG3 / Charging advice / Bail date / FRAIMS No.	

## 11 Prosecution Authority actions

## Crown Prosecution Service actions - England and Wales

1. When Crown Prosecution Service (CPS) notifies the Digital Case Management Unit (DCMU) or responsible person, that the case is suitable for prosecution, update the case on the Fraud Referral and Intervention Management System (FRAIMS) with details of the CPS Case Officer and Lawyer. See [FRAIMS guidance – Notification of Assigned Officer](#).

2. If the prosecution is as a result of the claimant not accepting a Caution or Administrative Penalty, or failing to attend the interviews, update FRAIMS. See [FRAIMS guidance – Updating the Contact Caution and Penalties details](#).

3. This enables Management Information on cases that would have been appropriate for an alternative fraud penalty but for the claimants choice not to accept it.

4. When the CPS accepts the case for prosecution it decides on the appropriate charges. The selected offences are either:

- summary offences
- either way offences
- indictable only offences

5. In Counter Fraud and Compliance Directorate (CFCD) Criminal Investigations cases, where possible, a consultation prior to arrest must be undertaken with the CPS, the result of any consultation must be recorded on FRAIMS. See [FRAIMS Guidance - Obtaining Legal Advice](#).

6. When dealing with a reactive or unplanned police arrest, the CPS should be consulted from the custody suite for advice on how the case should proceed. For example, whether the suspect should be freed on police bail and, in appropriate cases, for advice on charging

### Summary offences

7. Summary offences are usually under either Section 112 or Section 112 (1A) or Section 111 of the Social Security Administration Act (SSAA) 1992. The offences need to be within the 12 month time limit prescribed by Section 116 of the Social Security Administration Act (SSAA) 1992, unless it is appropriate for the issue of a Secretary of State's or Lord Advocate's Certificate.

### Either way offences

8. Either way offences include:

- those included in the Theft Act 1968
- Section 111A of the SSAA 1992
- Section 111A(1A) of the SSAA 1992
- the Forgery and Counterfeiting Act 1981
- money laundering offences included in the Proceeds of Crime Act 2002
- other offences including the Fraud Act 2006 and the Identity Cards Act 2006
- [Section 35 of the Tax Credit Act 2002 \(link is external\)](#)

9. For more detailed guidance on either way offences, officers should consult their local solicitors, preferably at an early stage in the investigation, on a case-by-case basis.

### Indictable only offences

10. In addition to the Common Law offence of conspiracy to defraud, the Identity Cards Act 2006 has introduced two further indictable only offences under Sections 25(1) and 25(3) of that Act.

11. As pre-charge advice must be obtained from a lawyer at CPS where possible, the lawyer advises on the suitability of charging a person with an indictable only offence.

### Obtaining the Arrest Summons Number

12. When the Crown Prosecution Service (CPS) has authorised the case for prosecution and confirmed the offence period and offence details, they will request an Arrest Summons Notice (ASN) by e-mail, from the Counter Fraud and Compliance Directorate (CFCD) Single Point Of Contact (SPOC). See [Arrest Summons Number](#)

## **Crown Prosecution Service requests additional documents - Action plan – pre first hearing**

13. In the event that the Crown Prosecution Service (CPS) requires documents on any case submitted under National File Standard (NFS) File Preparation, they will contact the appropriate Digital Case Management Unit (DCMU) Central Admin Inbox for the relevant area, by email.

14. The DCMU will be responsible for coordinating the gathering of additional documentation by way of tasking the investigator with the required action, by a required date.

15. The investigator will be responsible for gathering any witness statements and evidence as requested. The investigator should ensure the Team Leader (TL) or Higher Investigations Leader (HIL) is aware of the request, who will arrange any help and support required.

16. The DCMU and TL or HIL should be advised of any problems in gathering the required statements within the agreed timescale.

17. The investigator should amend the [MG5 \(link is external\)](#) and [MG6 \(link is external\)](#) accordingly to incorporate the changes and resubmit them to CPS, along with other documentation requested.

18. On receipt of the request, a Fraud Referral and Intervention Management System (FRAIMS) activity should be set and include details of what documents are required.

19. When additional documents have been obtained, the investigator should scan them into the system and forward them to the DCMU inbox. FRAIMS must be updated upon completion.

## **File returned for more information - acquisition of bad character evidence**

20. The Crown Prosecution Service (CPS) may return the prosecution file to the Digital Case Management Unit (DCMU) or the officer responsible for preparing the prosecution file to request further evidence. For example, the acquisition of bad character evidence.

21. Record the reason why the CPS has requested more details, and any discussion on the Fraud Referral and Intervention Management System (FRAIMS).

22. Under decided cases law, evidence of the defendant / witness' bad character can be determined by the production of a certificate of conviction, relying on Section 74 of the Police and Criminal Evidence (PACE) Act 1984, or the calling of witnesses in order to prove evidence of bad character.

23. In the majority of cases, it is envisaged that proof of convictions will be conclusive of the fact that the defendant is of bad character.

24. It will be the exception rather than the rule for the prosecuting advocate to require additional details on the convicted offences. But occasionally, detailed evidence will be required in order to prove evidence of bad character. For example, the modus operandi of previous offending behaviour that demonstrates a propensity to commit offences of the kind for which the defendant is charged.

25. CPS will determine as to what evidence is required in order to prove bad character in the courts. The more detailed the evidence of bad character is, the more likely a court will admit it as evidence.

26. In the first instance, the CPS will produce a record of conviction from the Police National Computer 'Phoenix'. This will be referred to in the form 'Notice of intention to adduce evidence of bad character'.

27. Where the CPS is of the opinion that a record of conviction is incapable of providing evidence of bad character, the investigator will be instructed to make enquiries of the police or CPS to obtain additional bad character evidence. For example, the record of conviction contains insufficient details about a previous conviction.

28. The investigator will be required to obtain summaries of previous offences, convictions from the police or CPS in a Section 9 witness statement (Criminal Justice Act 1967), exhibiting any official records as appropriate.

## **Procurator Fiscal actions - Scotland**

29. On receipt of the Standard Prosecution Report (SPR) the Procurator Fiscal (PF) will mark the case and decide whether a prosecution is appropriate and if the accused should be tried summarily or solemnly.

30. The PF may decide to issue an alternative fraud penalty to prosecution such as a warning letter or Fiscal Fine.

31. There will be cases where the PF decides that the case should be solemn where it has not been anticipated. This may be where the PF decides that the case is serious enough to be heard solemnly although the overpayment is less than £25,000 or the accused has previous convictions.

32. In these cases the PF will notify the Central Prosecution Team (CPT) who will complete the schedules on the Specialist Reporting Agency Web (SRAWEB) system based on information provided on the [PF13 \(link is external\)](#) and send them electronically to the PF within 21 days of the notification.

## **Submission of documents to Procurator Fiscal**

33. Prior to the case being marked as suitable for prosecution, the Procurator Fiscal (PF) may request documents such as an Interview Under Caution (IUC) transcript to enable them to make their decision.

34. Once marked as suitable for prosecution, the PF will request all documents listed as productions, witness statements and other relevant information.

35. This would include personal details of witnesses, [PF11\(S\) Part 2 \(link is external\)](#), which will be required for a criminal record check. The purpose of this is to explore doubts regarding their suitability or reliability.

36. These will be sent by TNT to the PF in a production folder.

## **Action following not guilty plea**

37. Following a not guilty plea the Procurator Fiscal (PF) may request further documents mentioned in the Standard Prosecution Report (SPR).

## **File rejected**

38. Prosecution authorities may advise or return the prosecution file to the investigator via the Specialist Reporting Agency (SRA) Web in Scotland, or via the Digital Case Management Unit (DCMU) in England and Wales (E&W), where they consider a case does not meet the public or evidential test for prosecution.

39. In England and Wales, when the Crown Prosecution Service advises on the [MG3 \(link is external\)](#) or returns a case, a written explanation is provided.

40. In Scotland, there is no requirement for the Procurator Fiscal (PF) to disclose their reason for marking a case 'No action'. This is because the decision of the PF may be based on information that is confidential or otherwise not in the public domain.



## Record the file returned by prosecuting authority

41. When the prosecuting authority returns the prosecution file after deciding that prosecution is not appropriate, the file must be returned to the investigator to consider if the file must be closed or if an alternative fraud penalty is appropriate.

42. The next actions to be taken depend on the reasons for the return of the file:

- [No further fraud penalty action undertaken \(link is external\)](#)
- [Rejected by SOL after refusal or rejection of a Caution or Administrative Penalty \(link is external\)](#)
- [Alternative fraud penalty to be considered \(link is external\)](#).

## Case to be closed

43. If the returned file is to be closed, the following actions must be taken:

- amend the Case Outcome as appropriate and input the Date of Outcome using today's date
- Debt Management run a weekly scan to identify these cases. There is therefore no need to directly notify them. If you have a specific query, email **[Redacted]** arrange to send the claimant the CI7/CI7W and record the issue on FRAIMS
- if the case involves tax credits, the investigator must issue the 'DWP Spontaneous Disclosure to HMRC Template (link is external)' by email to: **[Redacted]** for HMRC to take any civil action as appropriate. Take appropriate closure action. See: [Joint Working with HMRC](#)
- for Scotland if Tax Credits are involved an activity is placed into FRAIMS for the Tax Credit Desk to notify HMRC of the Procurator Fiscal (PF) decision
- take case closure action on FRAIMS, see FRAIMS guidance: [Closure Approval \(Fraud penalty Case\) – FES](#).

## Alternative fraud penalty to be offered

44. Where the file has been returned as an alternative fraud penalty is to be offered, do not change the Case Outcome or Date of Outcome fields at this stage. This action is taken by the Team Leader (TL) or Higher Investigations Leader (HIL) on case closure.

45. For more information regarding alternative fraud penalties, see: [Administrative Penalties](#).  
46-47 Spare.

## File upgrade requests

48. All National File Standard cases

49. The Crown Prosecution Service (CPS) will inform the appropriate Digital Case Management Unit (DCMU) by email, as to what action is required when:

- the suspect entering a Not Guilty Plea (NGP)
- notification of a Plea and Case Management Hearing (PCMH) is received
- a No Plea is entered

50. The notification will be in the form of a Police memo, [MG3 \(link is external\)](#) and a case management form or Hearing Record Sheet (HRS), where completed.

51. The email will advise that a part upgrade file be submitted by the Counter Fraud and Compliance Directorate (CFCD) to the CPS within 10 working days of CFCD receiving the initial upgrade request memo. It will reflect the minimum requirements outlined in DWP National standard for prosecution preparation.

52. The DCMU will be responsible for co-ordinating the gathering of additional documentation by way of tasking the investigator with the required action, by a required date and will copy Team Leader (TL) or Higher Investigations Leader (HIL) into the email.

53. The investigator will be responsible for completing the additional series for forms and 'warning' of witnesses of trial dates, etcetera. The investigator should ensure the TL or HIL is aware of the request.

54. When the additional documents have been completed, the investigator must send them electronically to the DCMU immediately and copy the TL or HIL into the email.

55. When the part upgraded file submission is received by the CPS, a lawyer review will be conducted upon the receipt of that file and any further evidential and witness requirements will be communicated to the DCMU by way of a Police Memo.

56. The DCMU, upon receipt of the additional Police Memo will forward the request to the investigator, with a copy to the TL or HIL. The investigator will be responsible for gathering any additional witness statements and evidence as requested, in the correct format as directed by the CPS.

57. The investigator must ensure the TL or HIL is aware of the request, who must arrange any additional help and support as required, in order to ensure CFCD meets the deadlines set by the CPS.

58. The DCMU and TL or HIL must be advised of any problems in gathering the required statements within the agreed timescale. This must be fed back to the CPS at the earliest opportunity to avoid any confusion and the case being lost.

59. The DCMU will be responsible for the return of the documentation to the CPS and ensuring that the investigator and TL or HIL is aware of the dates by which these requests should be returned by.

60. Any additional hearing dates should be recorded on the Fraud Referral and Intervention Management System (FRAIMS) by DCMU where known and should ensure that the investigator is aware of them.

61. The MG6B form, which is a private and confidential document, should be emailed directly to the appropriate regional CPS Review inbox for those other DWP or LA staff who are required to complete them.

62. Update FRAIMS when the actions are completed.

### **Contested cases listed in the Magistrates Court**

63. Investigators will receive a request for an upgrade file together with a copy of the Case Management Form (CMF), [MG3 \(link is external\)](#) and/or a Hearing Record Sheet (HRS) where this has been completed.

64. These documents will identify the disputed, 'real' issues for the trial hearing and the key or non key witnesses who are required to be called.

65. Investigators will need to review these documents in conjunction with all MG3 and their own case analysis conducted prior to the submission of the initial National File Standard (NFS).

66. The upgrade file will be prepared in accordance with the 'real issues' in the case, as identified on the CMF or HRS. The initial NFS materials do not need to be resubmitted.

67. Additional evidence will include all other relevant key evidence, exhibits list and initial disclosure. See [DWP National standard for prosecution preparation. \(link is external\)](#)

### **File upgrade – Benefit, Universal Credit or Tax Credit decisions challenged**

68. The Case Management Form (CMF), issued by the Crown Prosecution Service (CPS) on a Not Guilty Plea (NGP) case, identifies the witnesses that are required for trial.

69. If any of the generic Decision Makers (DMs) are called as a witness, then the investigator will need to approach the Nominated Decision Maker (NDM) for their area and ask them to complete an MG11 witness statement.

70. This action will apply to all cases irrespective of the value of the overpayment and is required as the benefit decisions have been challenged by the defence and there is a requirement to enter them in to evidence.

71. If a Pension Credit file is upgraded because of a NGP being entered, you will be required to email: [DWP Newcastle Benefit Integrity Command FIS DM E-Evidence \(link sends e-mail\)](#)

**(40 \* Personal data (absolute exemption in relation only to information that is the personal data of the applicant** in order to contact a DM to present evidence in person.

72. The appropriate NDM will explain the process for obtaining benefit decisions on the [MG11 \(link is external\)](#)/MG11 (link is external) for hand written statements and [MG11 \(link is external\)](#)/MG11 (link is external) for typed statements for the following benefits:

- Income Support
- Jobseekers Allowance
- Employment and Support Allowance
- Incapacity Benefit
- Disability Living Allowance
- Personal Independence Payment
- Attendance Allowance
- Carer's Allowance
- Universal Credit
- Tax Credit

73. The NDM is required to exhibit the following:

- all information relevant to the overpayment, this must include:
  - a copy of the overpayment letter sent to the claimant, [ORG7 CP/No CP WA \(link is external\)](#) / [ORG7W CP/No CP WA \(link is external\)](#) / [ORG7 Fraud WA \(link is external\)](#) / [ORG7W Fraud WA \(link is external\)](#) or equivalent
  - a schedule of the overpayment
  - copies of the appropriate Decision Maker's decision on the amount overpaid and recoverability of the overpayment, LT54s or equivalent
  - any other documents relevant to the calculation and recoverability of the overpayment
- any other benefit documentation relevant to the case

74. This is not an exhaustive account of the evidence required in prosecution cases. Other evidence may be required in individual cases, such as details of permitted work.

75. Statements are required from the relevant Decision Maker to explain the process they carried out when reaching their decisions or reassessment, if the offence relates to benefits other than:

- Income Support
- Jobseekers Allowance
- Employment and Support Allowance
- Incapacity Benefit
- Disability Living Allowance
- Personal Independence Payment
- Attendance Allowance
- Carer's Allowance

76. Specimen examples can be found in [Specimen Witness Statements \(E&W\)](#).

77. Where decisions are challenged, and are non-DWP in origin, the investigator will need to approach the appropriate agencies and obtain witness statements on the MG11.

78. The content should be similar to that documented above and the appropriate forms and letter relevant to the decision must be exhibited using the MG11.

79. When the additional statements have been completed, the investigator must send them electronically to the Digital Case Management Unit (DCMU), with all other documents requested in the file upgrade, (as one return to CPS) within the specified time limits.

80. The above action must be undertaken where the CPS decides that the decision documents are required as exhibits even though the defence may not have requested this.

## Cases destined for the Crown Court

81. In these cases, the defendant will have entered one of the following pleas, at the first hearing:

- guilty plea
- not guilty plea
- no plea indicated

82. Depending on the plea entered, the case will be allocated / sent to the Crown Court for one of the following hearings:

- sentence – guilty pleas only
- Preliminary hearing
- Early Guilty Plea hearing
- Case Management Hearing

83. Following notification of any of the above, except Guilty plea, a request for an upgrade file will be sent to the investigator, via the Digital Case Management Unit (DCMU).

## **Service of upgrade files in the Crown Court**

84. The service of cases after sending is governed by the Crime and Disorder Act 1998 (Service of Prosecution Evidence) (Amendment) Regulations 2012, which specifies service within 70 days, or less, or 50 days in the case of a defendant in custody, from date of sending in the Magistrates Court.

85. Early Guilty Plea (EGP) cases will be served within a shorter timescale, generally seven weeks, or less where directed by the court.

86. The timescales are the maximum to enable all parties to prepare an upgrade file, review the case and identify any additional evidence / actions to be taken and to complete service in accordance with the above legislation and the rules.

87. Return dates for the upgrade file to the Crown Prosecution Service (CPS) will be case specific.

## **Preliminary hearings**

88. Where a preliminary hearing is listed, the Crown Court will be provided with copies of the Initial Details of the Prosecution Case (IDPC) already served on the court and defence, prior to the first hearing.

89. The CPS will indicate via a Police Memo that the case is going for a preliminary hearing. They will provide a date for the hearing and a date by when the upgraded file should be returned to them within ten days following the hearing.

90. The investigator must complete an updated [MG10 \(link is external\)](#), Non Availability, for all witnesses, Key and non-Key, and return it to the CPS, via the Digital Case Management Unit (DCMU), in time for the preliminary hearing.

91. No further evidence is required from the investigator for this hearing at this stage.

92. The investigator should use this hearing notification as an 'Early Warning' to commence preparation of an upgrade file with reference to the plea entered, if known.

93. Where there is a no plea indication they should refer to their own analysis of the anticipated plea and the MG3 completed by the prosecutor at the Pre-Charge Decision (PCD) stage.

94. The investigator should return the upgraded file by the date on the original Police Memo, which should be post-preliminary hearing date.

## **Early Guilty Plea hearings**

95. It is expected that both the investigator and the prosecuting authority will have considered those cases expected to be guilty pleas in the Crown Court and identified them at the initial National File Standard (NFS) submission and initial review or pre-charge decision processes.

96. Cases expected to be guilty pleas will be expedited to an Early Guilty Plea (EGP) hearing in accordance with local practice guidance.

97. On receipt of an upgrade file request, the investigator must prepare and submit a proportionate file to facilitate the expedited EGP listing and ensure that the court and defence are provided with sufficient information to take a plea and proceed to sentence, without the necessity of serving a full trial ready case.

98. The upgrade file to be served in preparation for that hearing will only contain material required to demonstrate compliance with the Full Code Test and enable the court and defence to deal with both plea and sentence.

99. Wherever possible, proportionate EGP files will be built from the material submitted by the investigator on the initial file, plus any repayment / appeal updates.

100. The investigator should consider other key evidence, usually from the non-key evidence where it is necessary to establish the key elements of an offence charged and so facilitate the early disposal of the case. For example, surveillance, rebuttal evidence.

101. Witness availability details will not be required for an EGP hearing. Initial NFS materials do not need to be resubmitted, nor will the MG11 corroborative and continuity statements be required.

102. Initial disclosure should be considered in accordance with Criminal Procedures and Investigation Act (CPIA) 1996. Accurate identification of cases suitable for the EGP procedure is likely to mean that there will be little unused material to be disclosed.

103. It is still necessary that all such material is properly scheduled and carefully assessed by the disclosure officer to ensure that the prosecuting authority can correctly review the schedules and ensure that the disclosure obligations are met in full.

104. Service on defence of the disclosure schedules and any disclosable material will be undertaken at the same time as service of the EGP file. See [DWP National standard for prosecution preparation](#). (link is external)

### **Case Management Hearing**

105. A request for an upgrade file will be sent in all cases where a not guilty plea or a no plea indicated has been entered, and has been identified as not suitable for Early Guilty Plea (EGP).

106. Cases initially identified for an EGP hearing may also proceed to a Case Management Hearing (CMH), either because the defence were not in a position to enter a plea at the EGP hearing or because a jury trial / Not Guilty Plea indicated will be necessary.

107. An effective CMH requires all parties to have correctly assessed the issues in the case and identified any evidence that can be agreed. This requires the prosecuting authority to have served a trial ready case which establishes evidence in support of each element of all offences charged.

108. All cases for CMH must include the MG6 series, [MG10 \(link is external\)](#) – updated witness availability for all key and non-key witnesses for a six month period commencing after the CMH date all MG11 statements and other relevant key evidence.

109. This will enable the prosecuting authority to serve a trial ready case, which is a necessary precursor to ensure an effective CMH. See [DWP National standard for prosecution preparation \(link is external\)](#).

110. Where a not guilty plea is entered at the CMH or indicated at the EGP, the investigator will provide all additional material necessary to comprise a trial ready file.

111. This must include all statements not previously served as key including corroborative, continuity, etcetera and all other key evidence, such as, eye witness evidence; Decision Maker's statements, etcetera.

112. A lawyer review will be conducted upon the receipt of that plea and any further evidential and witness requirements will be communicated to the Digital Case Management Unit (DCMU) by way of a Police Memo.

113. Original evidence contained in video or audio recordings and documentary exhibits must be included.

114. The additional key evidence will be according to the 'real issues' in the case as identified at the CMH.

115. The investigator will be provided with this information from the CMH form or HRS, where they have been completed as in the contested cases process in the Magistrates Court.

116. Any witnesses required to be called in respect of those issues that cannot be agreed will be confirmed.

117. Statements of witnesses, not supporting the prosecution case or providing no evidential value, must be treated as unused material and will only be disclosed in accordance with Criminal Procedures and Investigation Act (CPIA) 1996 principles.

118. Initial disclosure of any unused material considered capable of undermining the prosecution case or in assisting any defence identified at this stage must also be provided.

## **Appendix A**

### **Key Evidence which proves the offence**

119. Key evidence is that evidence which establishes every element of the offence to be proved, and goes to prove that the suspect committed the offence with the necessary criminal intent:

- EQ1 / EQ1(AP) / Occupational Pension details / Surveillance / Financial Agreements / Schedule of Assets / Marriage Certificates, and so on, or a combination
- in a False From Outset (FFO) case - Part papers, relevant pages only
- in Change of Circumstances (CoC) cases, DLA only - Part papers, relevant pages only
- all 'Key' pieces of evidence will require MG11 Witness Statement completing before submission to the Crown Prosecution Service (CPS)
- all pieces of 'Key' evidence will be recorded on the MG5 (Section 1) as being available and must be included on the email to the CPS
- account for all evidence sent to the Decision Maker (DM) by listed on LT54 as Key or non-Key within MG5 or unused on MG6, Notes To Advocate
- Interview Under Caution (IUC) transcripts exhibited by the investigator, including No Comment interviews

### **Naming conventions and scanning**

120. Only clerical evidence documents to be scanned as PDF docs, Word and Excel documents are not required to be converted.

121. See [NFS Naming Conventions](#) for more information on the format to be used.

122. Ensure page orientation is correct on scanned documents, Portrait, Landscape or Mixed documents and with no blank pages.

123. As the SCANDIR directory will delete all files older than one hour, investigators must move any scanned documents by dragging them into the Electronic Evidence folder within this timeframe.

124. When the Team Leader or Higher Investigations Leader (TL/HIL) undertakes their check, it is recommended that this is done within the Electronic Evidence folder, rather than from the email, as this will ensure that the original document is revised.

### **Non Key evidence which corroborates the Key evidence used**



125. Witnesses and evidence that supports the case or simply corroborates the evidence provided by 'Key' witnesses. These pieces of evidence are not exhibited or sent to the Crown Prosecution Service (CPS).

126. Examples may include:

- television subscription / National Anti-Fraud Network (NAFN) / TV licence / utility bills / birth certificates, etcetera - these documents, on a case by case basis, maybe 'Key'
- surveillance – other members of the team where classed as non-Key
- each piece of non-Key evidence requires an entry on section 3 of the MG5
- bank statements, recorded as non-Key evidence, Schedule of Assets (SOA) / Schedule of Payments (SOP) / Schedule of Earnings (SOE) must be completed
- second officer at IUC if not Joint Working

### **Ad Hoc issues**

- ORG7s – print off and scan as Portable Document Format (PDF) or convert into PDF if on a transformed site
- claims forms are not required on CoC cases, except Disability Living Allowance (DLA) and Personal Independence Payment (PIP)
- Local Authority (LA) in non SFI areas should follow guidance as outlined in this guide
- hand written witness statements should be typed up upon receipt. Only send the typed version to the CPS for first hearing
- no MG11 Part 2s are required
- witness statements and exhibits must be produced and sent to the CPS separately they must not be combined into one PDF document
- there is a limit of 7MB / 7,000kb per email, 1,000kb equals 1MB
- screen prints / tapes / CD are exhibited

### **Generic Witness Statements (MG11)**

- MG11 DMA – DWP Merthyr / Stirling cases only
- MG11 DMA – DWP Merthyr / Stirling cases and other DWP benefits
- MG11 Other – Local Authority overpayment in Joint Working cases
- MG11 Other – Standalone DWP Benefits such as, DLA / PIP / Carer's Allowance / Pension
- no dates to avoid for Decision Makers on MG10 and no Part 2s required

## **Publicising Investigation Outcomes**

### **00 Introduction**

The Department for Work and Pensions (DWP) Programme Protection Strategy is based around changing attitudes, linking fraud and welfare reform and increasing public confidence in the system by:

- making a real connection between fraud work and improvements to service delivery to meet public concern that money saved from anti-fraud work should be returned to the taxpayer

- continuing to dispel the opinion that fraud is a victimless crime
- demonstrating that action is taken on more serious and organised fraud as well as lower level fraud
- demonstrating that action is taken against people who continue to commit benefit fraud
- changing perceptions of the Counter Fraud and Compliance Directorate investigator, and
- explaining the benefits of techniques such as data-matching and new legislation

Publicity can be one of the most valuable outcomes of a fraud investigation, demonstrating the action taken against people who commit fraud and changing public perception. Press coverage is a recognised deterrent to those committing or thinking of committing benefit fraud.

Ministers and the media regularly seek information on many aspects of fraud investigations, especially results and, in particular, prosecutions. One way of achieving this is by way of the Media Notice (MN) process.

The Fraud Case Analysis Group Forum will also look at ways a particular type of fraud could have been prevented and whether changes to policy/procedures are required.

This section looks at the role of awareness and publicising investigation outcomes in the aim of reducing fraud.

## 01 Raising fraud awareness

### Media Notices

The aim of the Media Notice (MN) process is to obtain the best local and national media coverage possible for the valuable work done across the Counter Fraud and Compliance Directorate (CFCD) and to act as more of a deterrent on a local level.

The process is also to supplement the valuable national press coverage received via the Department for Work and Pensions Press Office.

Counter Fraud and Compliance Directorate (CFCD) Strategic Operational Campaign Centre (SOCC) are responsible for issuing Media Notices (MNs) to Ministers.

On receipt of the MN, the SOCC team will check the content and decide whether the Minister and/or other interested parties for example, Permanent Secretary, Chief Executive, Other Government Department, etcetera, should be notified at an early and/or sentencing stage.

The SOCC team may also consult with:

- the CFCD Local Service Operations Team
- Central Criminal Investigations and Intelligence Service (CCIIS)
- Legal Group Information and Devolution, if policy lines are required,
- Crown Prosecution Service (CPS) / Solicitors Branch, if legal advice is required.

MNs must be written based upon the facts of the case and include details of the alleged fraud with a 'statement of facts', the duration of the fraud, type of fraud, etcetera.

Press Office and Local Media Single Point Of Contacts (SPOCs) will also use MNs to generate media interest, encouraging local and national media to report high-profile/interesting prosecution cases.

If the case involves members of Other Government Departments, Local Authorities or the Police, the MN must include details of the contact made with the relevant employer and any information disclosed.

The SOCC Team are responsible for any disclosure of investigation outcomes to the employing Department/Agency, although it is recognised that in some instances the employer will be aware of, and possibly involved in, the investigation of the individual and further disclosure may not be required.



The [MN1 \(link is external\)](#) must be completed immediately when such an interest is identified.

## 02 Media Notices

### Criteria

All appropriate Counter Fraud and Compliance Directorate ~~Local Service~~ Investigation, Central Criminal Investigation Service and Financial Investigation Unit cases must be identified for the Media Notice (MN) action, as early in the investigation process as possible. This includes Access to Work (ATW) cases.

All cases involving Her Majesty's Revenue and Customs (HMRC) must have Media Notice action completed and forwarded to the Media Single Point of Contact (SPOC) in advance of any court appearance.

The following types of cases will fit the criteria for National MN action:

- interesting cases. For example, cases likely to be newsworthy or involving a large scale raid with numerous arrests
  - embarrassing to the Department, such as, offences committed by an employee
  - the suspect:
    - is a well-known person or related to a well-known person
    - has a unusual or professional occupation
    - has a history of benefit fraud
    - is/was employed by a Government Department. For example, the Local Authority or police
    - is/was employed in a position of trust
    - has used the benefits from the offence for an unusual purpose, such as funding a lavish lifestyle
  - an employer colluding in the fraud
- Any other investigation can still receive some local media activity

### Process

#### Early stage case identified

Cases that could be:

- potentially embarrassing to the Department
  - involving staff from Other Government Departments
- may need to be highlighted earlier to warn press office, Ministers and senior managers.

Where an early stage MN is required, the investigator must complete the [MN1 \(link is external\)](#) form selecting **Pre-MN1**. Create an activity on the Case on the Fraud Referral and Intervention Management System (FRAIMS), noting the activity **MN1 considered appropriate, completed and attached** and attach the MN1 to the activity.

Ensure the Local Media Single Point of Contact (SPOC) is associated to the FRAIMS case and create a separate activity to notify the Media SPOC accordingly. See [FRAIMS guidance – Recording the Media Notice](#).

Email the completed Pre-MN1 form to the Local Media SPOC / dedicated MN Point of Contact, in Scotland.

The Local Media SPOC will then determine what action is required at the early stages and who should be notified about the details of the case.

#### Monitoring the Court Hearing

Investigators are responsible for checking the requisition for initial court dates and times. Details of the requisition issued by the Crown Prosecution Service (CPS) are recorded on

the Fraud Referral and Intervention Management System (FRAIMS) case. See [FRAIMS guidance - Requisition received by email \(link is external\)](#).

A Due Date must be set by an activity in FRAIMS to ensure that the date of the hearing and any sentencing details are captured. See [FRAIMS guidance – Recording the Court Hearing Date](#).

On the day of the hearing, the investigator must contact the court by telephone to obtain details of:

- further hearing date
- committals to Crown Court
- adjournments
- sentencing dates or
- sentencing outcomes

Where the Pre-MN1 form has been completed, all contact with the court and alternative dates for hearing must be recorded on the original [MN1 \(link is external\)](#) activity created.

Where the case now meets the criteria for MN1 action, create an activity on FRAIMS to record the contact with the court. Add the following wording on the activity: **MN1 considered appropriate, awaiting Sentencing outcome**. Create a Due Date for the next contact with the court.

The investigator must continue to contact the court after each hearing until a sentencing date or outcome is known.

## Cases heard in Crown Court - England and Wales

If the case has been committed to Crown Court for trial or sentencing the investigator must obtain details of further hearing dates and adjournments. This information can be obtained by telephoning the court or via the [CourtServe2 \(link is external\)](#) web-site.

Court Serve provides information on all hearings in the Crown Court and Court of Appeal and will allow Counter Fraud and Compliance Directorate (CFCD) investigators to track if, after the first hearing, the case is adjourned.

Investigators can check Court Serve by accessing the **Daily Lists** to identify all cases listed on the website to identify follow up court hearings on their cases.

The system is updated daily and final lists for the next day are completed after 16:30/17:00 each day.

Court Serve only provides details of the court case listings. It does not provide details of the outcome. Therefore, investigators must contact the individual court by telephone to obtain details of the sentencing outcome.

## Action when sentencing details known

In England and Wales, sentencing results must be notified on the day sentence was passed to enable Department for Work and Pensions (DWP) Press Office to issue a Departmental Press Release.

In Scotland, sentencing results must be notified on the day after sentence was passed to enable DWP Press Office to issue a Departmental Press Release. The dedicated Admin Officer must, therefore, ensure that they can obtain the relevant details from the Procurator Fiscal, via the Scottish Courts Service link.

In exceptional circumstances, specific arrangements should be made with the approval of the Team Leader / Higher Investigations Leader for the lead investigator to attend. A example of this would be where the case is likely to attract publicity and it is the department's interest to have a presence in court to answer press questions following sentencing.

When details of the sentencing outcome are obtained, the investigator must complete the [MN1 \(link is external\)](#) form by updating the MN1 to **Final-MN1** and send the completed electronic MN1 to their Local Media Trained Single Point of Contact (SPOC) or dedicated MN Point of Contact, in Scotland.

In pre-MN1 cases, attach the MN1 to the Fraud Referral and Intervention Management System (FRAIMS) case and close the FRAIMS activity.

In all other cases, update the FRAIMS activity, adding **Final – MN1 considered appropriate completed and attached**.

In Pre-MN1 cases the Media SPOC will action as appropriate and when fully completed the Media SPOC will close their activity on FRAIMS.

## Cases with Financial Investigation Unit interest

Where the Financial Investigation Unit (FIU) has an interest in the prosecution, a separate [MN1 \(link is external\)](#) form must be completed by the FIU when the confiscation timetable has been set. For example, when the court date has been set and confiscation action agreed to proceed. See the [FRAIMS guidance – Recording the Media Notice notification](#).

On the date of the hearing it is the responsibility of the Financial Investigator to telephone the court following the hearing to obtain details of further hearing dates, committal to Crown Court, adjournments or court outcomes.

The Financial Investigator must continue to contact the court by telephone following each hearing until the case outcome is known.

The Financial Investigator must create an activity on the Fraud Referral and Intervention Management System (FRAIMS) to record the contact with the court. Add the following wording on the activity: **MN1 considered appropriate, awaiting Sentencing outcome**. Create a Due Date for the next contact with the court.

When the case outcome is known, update the MN1 form ensuring the correct **strap line** is selected.

Update the existing FRAIMS activity by updating the Description message to **MN1 considered appropriate and attached – emailed to Media SPOC** and update the **Status** to **Done**.

Email the completed electronic MN1 to the Local Media SPOC or dedicated Media Notice (MN) point of contact in Scotland.

## Further information requested

No member of the Counter Fraud and Compliance Directorate (CFCD) must talk to the press unless they are the Local Media Single Point of Contact or have undertaken media training.

CFCD Media Contacts are available to deal with press enquiries in conjunction with DWP Press Office and can be contacted when a spokesperson is required.

Further information can be found in [Press Enquiries](#).

## Distribution of Media Notices

### England and Wales

The investigator must email the completed [MN1 \(link is external\)](#) form to the Local Media Trained Single Point Of Contacts (SPOC) for their respective area.

When the Final-MN1 form is received from the investigator, the Media SPOC will issue the electronic MN1 to the nominated contacts:

- Counter Fraud and Compliance Directorate
- Head of Central Criminal Investigations and Intelligence / Head of Counter Fraud and Compliance Local Service (North / South)
- National Investigations Leader / National Intelligence Leader / Local Service Group Manager
- Strategic Operational Campaign Centre (SOCC), Leeds, email: **[Redacted]**
- G6 for Access To Work cases
- National Press Office: **[Redacted]**

- **[Redacted]**  
**Scotland**

The dedicated Admin Officer will monitor prosecution cases through the courts.

Once the first court date is known, the Admin Officer will notify the lead investigator and Team Leader (TL) / Higher Investigations Leader (HIL).

The investigator is responsible for emailing the updated Media Notice (MN) to the Senior Investigations Leader (SIL), TL /r HIL and dedicated Media Notice Point of Contact (MN POC).

Once the court outcome is known, the Admin Officer will notify the investigator and TL / HIL by email.

If, for any reason the prosecution is not being pursued, the Admin Officer will alert the investigator, TL / HIL, SIL and the dedicated MN POC by email.

## **Providing photographic evidence**

Some Department for Work and Pensions (DWP) prosecutions reported on national television and in the press have featured cases where the department has provided pictures, including photographs and video stills from surveillance and photos seized during house searches.

DWP Press Office, therefore, might contact the Local Media Single Point of Contact (SPOC) to check whether there is media usable imagery available. Media usable imagery is defined as photographs or surveillance footage that has been legally obtained through the course of an investigation and has been used as evidence in the prosecution case. Such imagery must be available either in digital format or easily and quickly converted to digital format or easily and quickly converted to digital format.

Unless there are on-going reporting restrictions, the media can provide a full coverage of the case following conviction and before sentence. This means that evidence lawfully obtained and used in court can be released at this stage.

The investigator should ensure, where possible, that innocent parties are pixelated out to protect their privacy. For example, relatives or friends of the convicted persons.

To pixelate an image it must be in digital format and available to edit. To edit the picture:

- right click on the appropriate file name
  - select **Open With** from the toolbar
  - select the **Paint** icon
  - select **Brushes** from the icon bar
  - select **Black** from the colour palette
  - hover the mouse (paint brush) over the area to be hidden, hold the left click on the mouse whilst moving the mouse (brush) over the area being covered. Release the left click of the mouse when the required area is hidden
  - once finished, save the image by choosing **file**, **save as** and putting the extension **\_Rev\_media\_image** at the end of the original file name
  - exit **Paint** by clicking the cross in the top, right hand corner of the screen
  - the new image is then saved for later retrieval and can be emailed to the Press Office
- Alternatively, the original surveillance footage or photographic image can be forwarded to the Press Office but must include details of what needs to be removed before the image can be released to the media.

When releasing such images, the media must be mindful of individuals' rights under the European Convention on Human Rights (ECHR) to a private family life.

## **03 Press Enquiries**

## Media Management

Analysis of the information provided in the monitoring / evaluation section will be undertaken centrally to help devise matches, checks and processes to make it harder to start and maintain a fraudulent claim.

A quarterly analysis report will be issued to Head of Counter Fraud and Compliance Directorate (CFCD).

Media queries are handled through the Department for Work and Pensions (DWP) Press Office network. If calls from the press come through to CFCD they must be directed to the Regional Press Office.

Jobcentre Plus Communications and the CFCD community needs to work closely at all levels and with the DWP Press Office network to respond swiftly and accurately to potential media coverage, including likely criticism, negative or positive exposure.

## CFCD Media Contacts

The Group Manager / National Investigations Leader / National Intelligence Leader has nominated a person to act as a central point of contact for media enquiries.

It is important, therefore, that people should recognise the importance of, and be familiar with, the process on media issues and who is available to talk to the media in any particular location. DWP Press Office will approach CFCD Media Contacts if a spokesperson or interviewee is required.

CFCD Media Contacts can be contacted for further advice, see the table below for details.

<b>Central</b>		
<b>[Redacted]</b>	Tel:	<b>[Redacted]</b>
	Mobile:	<b>[Redacted]</b>
	Email:	<b>[Redacted]</b>
	FRAIMS User ID:	<b>[Redacted]</b>
<b>London &amp; Home Counties</b>		
<b>[Redacted]</b>	Tel:	<b>[Redacted]</b>

<b>[Redacted]</b>	Tel:	<b>[Redacted]</b>
	Email:	<b>[Redacted]</b>
	FRAIMS User ID:	
<b>North East</b>		
<b>[Redacted]</b>	Tel:	<b>[Redacted]</b>
	Mobile:	
	Email:	<b>[Redacted]</b>
	FRAIMS User ID:	
<b>North West</b>		
<b>[Redacted]</b>	Tel:	<b>[Redacted]</b>
	Mobile:	
	Email:	<b>[Redacted]</b>
	FRAIMS User ID:	
<b>Scotland</b>		
<b>[Redacted]</b>	Tel:	<b>[Redacted]</b>
	Mobile:	

	Email:	[Redacted]
	FRAIMS User ID:	
<b>Southern</b>		
<b>[Redacted]</b>	Tel:	[Redacted]
	Mobile:	
	Email:	[Redacted]
	FRAIMS User ID:	[Redacted]
<b>Wales</b>		
<b>[Redacted]</b>	Tel:	[Redacted]
	Mobile:	
	Email:	[Redacted]
	FRAIMS User ID:	
<b>Central Criminal Investigations</b>		
<b>[Redacted]</b>	Tel:	[Redacted]
	Mobile:	
	Email:	[Redacted]



	FRAIMS User ID:	[Redacted]
<b>FES SLT and OMAT</b>		
[Redacted]	Tel:	[Redacted]
	Mobile:	
	Email:	[Redacted]
	FRAIMS User ID:	

## 04 Media SPOC

### Criteria

All completed Media Notice [MN1 \(link is external\)](#) forms will be emailed to the relevant CFCD Media Single Point Of Contact (SPOC) based on geography. The investigator must email the completed MN1 to the [Area Media SPOCS](#) for their respective area. The MN1 will be collated and logged on an Excel spread-sheet by the media SPOC to record activity. The investigator must associate the Media SPOC to the case on the Fraud Referral and Intervention Management System (FRAIMS). The Media SPOC will record all Media Notice (MN) action on FRAIMS. When Media Notice action is complete the Media SPOC will send an activity to the investigator on FRAIMS alerting them to this.

The Media SPOC will review each case to decide whether it meets the criterion of receiving National media coverage ([see below](#)). If it does it should be sent to the Press Office team at [Redacted]

Please see details of distribution lists at [Distribution of Media Notices](#).

All Media Notices must be sent to the National Strategic Operational Campaign Centre (SOCC) email address: [Redacted] by the Media SPOC.

The following types of cases will fit the criteria for National MN action:

- [Redacted]

### Process

#### Early stage case identified

Where a case is identified at an early stage in the investigation as:

- potentially embarrassing to the department
  - involving staff from other government departments, or
  - relating to Disability Living Allowance (DLA) and video footage has been obtained
- Media Notice (MN) action must be taken immediately.

If the Media Notice does not fit the criterion of the above or it is returned to the Local Media Single Point Of Contact (SPOC) by the Press Office, local media activity can be sought by the Media SPOC.

Liaison with the media (papers / journalists / radio stations) can be built up by the Media SPOCs and any satellite Media SPOCs in the area command.

The Local Media SPOC can then determine what action, if any, is required and who should be notified about the details of the case.

## Notifying the press

As soon as any case is in the public domain, Media Single Point Of Contacts (SPOCs) are free to notify the local press on the details of the case. Please note – National Insurance numbers, dates of birth and exact address details must still not be given.

If it is not yet in the public domain, details can still be provided to the journalists provided that the details do not identify any one specific person. Mr Smith of Bolton for example would not be enough information to confirm any one particular customer. We can accompany that with details of the cases as we would still not be identifying any one individual.

On the day of the hearing, the investigator must contact the court by telephone to obtain details of:

- further hearing date
- committals to Crown Court
- adjournments
- sentencing dates, or
- sentence outcomes

These details can then be provided to the Media SPOC to take any further localised action themselves or to forward to the Press Office as appropriate.

Any activity must be recorded on the Area Excel spread-sheet FRAIMS.

Spread-sheets must be sent to the National Strategic Operational Campaign Centre (SOCC) email address on a monthly basis using the following email address: **[Redacted]**

## Further information requested

No member of the Counter Fraud and Compliance Directorate (CFCD) must talk to the press unless they are the Local Media Single Point Of Contact or have undertaken media training.

CFCD Media Contacts are available to deal with press enquiries in conjunction with the DWP Press Office and can be contacted when a spokesperson is required.

## Distribution of Media Notices

When the Final-MN1 form is received from the investigator, the Local Media SPOC will issue the electronic [MN1 \(link is external\)](#) form to the nominated contacts:

- Counter Fraud and Compliance Directorate
  - Head of Central Criminal Investigations and Intelligence / Head of Counter Fraud and Compliance Local Service (North / South)
  - National Investigations Leader / National Intelligence Leader / Local Service Group Manager

Strategic Operational Campaign Centre (SOCC), Leeds, email: **[Redacted]** Access To Work cases, email: **[Redacted]**

National Press Office: **[Redacted]**

Debt Management, email: **[Redacted]**

## Scotland

The dedicated Admin Officer will monitor prosecution cases through the courts.

Once the first court date is known, the Admin Officer will notify the lead investigator and Team Leader (TL) / Higher Investigations Leader (HIL).

The investigator is responsible for emailing the updated Media Notice (MN) to the Senior Investigations Leader (SIL), TL / HIL and dedicated Media Notice Point of Contact (MN POC).

Once the court outcome is known, the Admin Officer will notify the investigator and TL / HIL by email.

If, for any reason, the prosecution is not being pursued, the Admin Officer will alert the investigator, TIL / HIL, SIL and the dedicated MN SPOC by email.

## **03 Code of Practice for Radio Terminals using The Airwave Interface Service**

### **Introduction**

1. The widespread use by hobbyists, criminals and the press of scanning radio receivers (scanners) has resulted in the need for Counter Fraud and Compliance Directorate (CFCD) to be able to prevent unauthorised people from 'listening in' on their radio messages, in order to maintain the integrity and effectiveness of their operations.

2. The introduction of the Airwave Service enables all authorised users to operate in a secure manner using any number of approved commercially available TERrestrial Trunked RAdio (TETRA) Airwave Service radio terminals.

### **TEA2 User Sub-Licence**

3. All Public Safety Organisations that use the Airwave Service must hold a TEA2 User Sub-Licence before they can be supplied with radio terminals. CFCD holds a TEA2 User Sub-Licence.

4. Central Sponsor for Information Assurance (CSIA) is the issuing authority and is based at the address below:

Airwave Accreditation Secretariat

**[Redacted]**

5. To contact CSIA: E-mail: **[Redacted]**

### **Purpose and scope of the Code of Practice**

6. The Code of Practice (CoP) identifies approved procedures to ensure secure handling and use of the Airwave Service Interface. These procedures are to be adopted in the storage, issue, use and accounting and auditing of the Airwave Service radio terminals.

7. Counter Fraud and Compliance Directorate (CFCD) must use this CoP for all Airwave Terminals as a minimum standard to formulate local secure handling procedures. These procedures must be documented and may be subject to audit by the Airwave Accreditation Authority and the National ComSec authority.

### **Level of communication**

8. Under no circumstances should CFCD traffic above 'Restricted' be passed over the baseline Airwave Service network. It is not appropriate that information falling under the definition of confidential be passed over the Airwave network. Refer to [Appendix B](#) for security definitions.

# Radio Procedures

## 00 Introduction

1. This guidance must be used in conjunction with [Surveillance](#) and is applicable to those people undertaking the following roles/responsibilities in relation to the use of radio equipment:

- investigator / Authorised user
- Team Leader (TL) / Higher Investigations Leader (HIL)
- Counter Fraud and Compliance Directorate (CFCD) Support Team
- Radio Terminal Custodian (RTC).

## 01 Governance and Assurance

### Radio equipment log sheet

1. The location of each Airwave Interface System (AIS) radio terminal must be accountable at any given time. This is a requirement of both the Airwave Accreditation Authority and the National Technical Information Security Authority.

2. The Airwave Accreditation Authority periodically audits the procedures in place within the Department for Work and Pensions (DWP).

3. In order to record the issue, return and status of equipment and to provide this accountability, Counter Fraud and Compliance Directorate (CFCD) must maintain in accordance with the Radio Code of Practice (Radio CoP) the following CFCD:

- [equipment log sheet](#) / Appendix D for hand portable radio terminals, and
  - [car terminal log sheet](#) / Appendix E for vehicle fitted radio terminals.
4. Each sheet must be retained for a minimum of six months in lockable accommodation.
5. The CFCD equipment log sheet must be completed for each AIS hand portable radio terminal. The sheet should be completed by including:
- item,
  - model number
  - Individual Short Subscriber Identity (ISSI) number.
  - Log Out
    - date - logged out
    - time - logged out
    - name of officer
    - signature of officer
    - Regulation of Investigatory Powers Act (RIPA) reference number in surveillance cases or file reference number in other cases, to be completed by CFCD Investigations users only
    - additional items issued - this will be the equipment pack issued with each individual terminal
      - date - logged in
      - time - logged in
      - name of officer
      - signature of officer
  - Log In
6. The CFCD car terminal log sheet must be completed for each AIS vehicle fitted radio terminal. The sheet should be completed by including:
- car registration number
  - ISSI number
  - Log Out

- date - logged out
  - time - logged out
  - name of officer
  - signature of officer
  - date - logged in
  - time - logged in
  - name of officer
  - signature of officer
  - comments - this could include where the driver of a vehicle changes during the course of an operation as an explanation of why a different officer is logging the equipment back in.
7. Radio terminals will be issued to CFCD Criminal Investigations Authorised users on an individual basis and allocated to vehicles.

8. Where a radio terminal is allocated to a vehicle the person responsible for the vehicle at that time will also be responsible for the radio terminal and will be the person who logs the equipment in and out on the CFCD car terminal log sheet.

9. Radio terminals will be issued to CFCD Investigations Authorised users as needed.

10. The radio terminals will be audited by the Team Leader (TL) / Higher Investigations Leader (HIL) monthly as a minimum and by Area Radio Terminal Custodians (RTCs) six monthly as a minimum to ensure all radio terminals are physically accounted for.

11. Details of the check will be recorded on the next free line of the CFCD equipment log sheet and will include time and date of check and checking officer's signature.

12. Although it is preferable for the RTC to physically view each radio terminal it is not a requirement and a written assurance from the TL / HIL can be accepted.

13. The TL / HIL must physically view each radio terminal once every six months. Written assurance from the Authorised user can be accepted each month leading up to the actual physical check.

14. Tamper seals must be checked every six months as part of the physical check carried out by the TL / HIL.

## **Loan of radio terminals**

15. Radio terminals can be loaned to partner organisations in joint operations where operational needs dictate, for example; when part of a joint working investigation with a Local Authority.

16. Before requesting authority to loan equipment to a partner organisation the Team Leader (TL) / Higher Investigations Leader (HIL) must ensure a Personnel Baseline Security Check or equivalent has been completed for the recipient.

17. In order to assure that the check has been completed the CFCD [Personnel Baseline Security Check certificate](#) / Appendix C must be completed by the partner organisation.

18. Authority to loan equipment to a partner organisation will be requested either in the fraud drive business case or on the [RIP1 \(link is external\)](#) application form if the loan of equipment is carried out as part of joint surveillance activity. The completed CFCD Personnel Baseline Security Check certificate should accompany the request for authorisation.

19. Authority to loan equipment to a partner organisation will be provided in writing by the TL / HIL as part of the authorisation of the fraud drive business case or in section 12 of the RIP1.

20. Prior to issue the recipient of the equipment should be briefed on the [Radio Code of Practice](#) and informed of the requirement to comply with its provisions including use of correct communication protocols.

21. Terminals will be booked out on the CFCD equipment log sheet and the column for name of officer should include the partner organisation.

22. The CFCD Baseline Security Check form will be attached to the appropriate equipment log sheet.

## **Roles and responsibilities**

23. The ultimate responsibility for security of the Airwave Interface System (AIS) radio terminals lies with the head of Counter Fraud and Compliance Directorate (CFCD) who is responsible for delegation of the following clearly defined roles and responsibilities as outlined in the Radio Code of Practice (Radio CoP):

- Head of Radio Communications/Crypto Custodian (HRC)
- Area Radio Terminal Custodians (RTC)
- Team Leaders / Higher Investigation Leaders
- investigators / Authorised users.

24. For further information, see [Fraud Managers Role](#).

### **Head of Radio Communications/Crypto Custodian**

25. The Radio CoP requires the nomination of a Band E manager within the CFCD Support Team who will have responsibility for:

- the security of the CFCD AIS radio terminals
- software upgrade devices
- national co-ordination of RTCs
- seeking written assurance every six months from RTCs of compliance with roles and responsibilities
- communication arrangements with
  - o radio terminal manufacturers
  - o Airwave Accreditation Panel Secretariat
  - o Other Government Departments
- maintenance of database of National and RTCs and deputies

### **Area Radio Terminal Custodian**

26. Each area will appoint a Band E RTC and Band D deputy to:

- liaise directly with, and, notify changes of RTC or deputies to HRC
- ensure adequate physical security of centrally stored AIS radio terminals
- maintain the CFCD equipment log sheet of radio terminals and ancillary equipment
- conduct as a minimum a six monthly audit of all equipment
- ensure adherence to Radio CoP procedures
- maintain a record of all disabled radio terminals
- report loss of radio terminals to
  - o Airwave
  - o HRC
  - o National Technical Information Security Authority / Communications Electronics Security Group (CESG)
- arrange repair and disposal of radio terminals
- investigate and report incidents to HRC where tamper seals have been broken..

### **Team Leaders / Higher Investigations Leaders**

27. Team Leaders (TL) / Higher Investigations Leaders (HIL) are responsible for:

- ensuring investigators are aware of and are complying with the Radio CoP procedures
- ensuring loss of radio terminals are reported to RTC
- ensuring maintenance of strict radio discipline
- ensuring CFCD equipment logs are maintained
- conducting, as a minimum, a monthly audit of all equipment on the CFCD equipment logs.

### **Investigators / Authorised users**

28. Investigators / Authorised users are responsible for:

- security of any AIS equipment issued to them
- compliance with the requirements and procedures outlined in the Radio Code of Practice (CoP)
- maintaining strict radio discipline, see [Radio Communication Discipline](#)
- compliance with DWP HR Data Handling Policy.

## 02 Radio Equipment

### Radio Terminals

1. The radio terminals used by the Counter Fraud and Compliance Directorate (CFCD) operate using the Airwave Interface Service (AIS) and their use is governed by the CFCD [Code Of Practice for Radio Terminals using The Airwave Interface Service](#) (Radio CoP) which has been agreed by Cabinet Office.
2. CFCD must use this Radio CoP as a minimum standard to formulate local secure handling procedures.
3. All managers and investigators must be aware of and understand the provisions of the Radio CoP before using the AIS radio terminals. The guidance provided here should not be used in isolation but in conjunction with the Radio CoP.
4. All users of the AIS must have undergone a Personnel Baseline Security Check or equivalent. This level of check is carried out as a standard recruitment check by Department for Work and Pensions (DWP) at the time an individual is employed.

### Storage

5. In normal circumstances all radio equipment should be stored in lockable facilities approved to the standard for storage of restricted items. Radio equipment must not usually be stored in facilities that do not satisfy this standard. This applies to both central storage facilities, where equipment will be logged in and out, and facilities used by individuals who have been issued with equipment on a permanent basis.
6. If, however, in exceptional circumstances the investigator, who will be referred to as the authorised user for the purpose of this guidance, has to store the equipment at their home address or stay away location, it is the responsibility of the authorised user to ensure the security of the equipment.

### Security of radio terminals

#### Radios fitted in vehicles

7. If a vehicle has to be parked and left unattended the investigator must ensure they have logged and switched off the vehicle fitted radio terminal and the vehicle is locked and secured.
8. When a vehicle is subject to routine servicing or repair the investigator must:
  - log off the vehicle fitted radio terminal
  - disable the terminal by removal of the crypto box or
  - arrange for the Radio Terminal Custodian (RTC) to request the terminal be temporarily disabled by applying for a stun on the terminal.
9. Once the service or repair has been completed the authorised user must:
  - reinstall the crypto box or
  - arrange for the RTC to remove the stun.
10. If following an accident a vehicle is recovered to secure premises the action above should be taken, as soon as is practicable, with regard to the radio equipment. If the vehicle is recovered to unsecured premises the authorised user must:



- arrange with the RTC for an immediate stun on the terminal if it can be removed or for it to be permanently disabled by applying for a kill on the terminal if the vehicle is too damaged to allow access to the terminal
- remove the terminal immediately or as soon as is practicable.

## **Hand portable radio terminals**

11. Hand portable radio terminals must not be left in unattended vehicles whether the vehicle is locked or unlocked.

## **Reporting lost, stolen or missing radio terminals**

12. The Area Radio Terminal Custodian (RTC) or Counter Fraud and Compliance Directorate (CFCD) Criminal Investigations Radio Custodian must be informed within one hour of the discovery that a terminal has been lost, stolen or is missing. This is to allow time for the authorised user to attempt to locate the missing terminal.

13. The initial report should be made by telephone and the [Radio Incident Report \(RIR1\) form \(link is external\)](#) must be completed electronically and forwarded within 24 hours of the telephone report to:

- the Area RTC, by Investigations authorised users, or
- CFCD Criminal Investigations Radio Custodian, by Criminal Investigations authorised users.

14. If the discovery is made out of office hours, including the weekend, the initial report by area authorised users should be made to the CFCD Criminal Investigations Radio Custodian who will act as the single point of contact in these circumstances and the [Radio Incident Report \(RIR1\) form \(link is external\)](#) must be forwarded on the first working day following the telephone report.

15. The out of office hours call to the CFCD Criminal Investigations Radio Custodian should be made on pager **[Redacted]**

and must include in the message:

[Redacted].

16. Providing these details are included, the CFCD Criminal Investigations Radio Custodian will call back within 15 minutes.

17. The telephone and electronic report must include:

- item
- serial number - not required in telephone report
- Individual Short Subscriber Identity (ISSI) number
- name of authorised user
- date and time of discovery that item was lost, stolen or missing
- location where discovery made
- account of activities leading to loss and action taken to locate the item following discovery, for example, places, vehicles checked, persons contacted who may have the item.

18. Where an area authorised user is completing the report following an initial out of hours telephone report to CFCD Criminal Investigations Radio Custodian the electronic report must also include:

- date of telephone report
- time of telephone report
- name of CFCD Criminal Investigations Radio Custodian reported to.

19. Following receipt of a telephone report the Area RTC or FES Criminal Investigations Radio Custodian will contact the Airwave Service Desk and request a stun on the terminal to disable the Air Interface.

20. Additionally, the Area RTC or CFCD Criminal Investigations Radio Custodian will send the report electronically to **[Redacted]** in accordance with the Airwave Service Code of Practice Issue 5.0 - 10 Dec 15 and HMG IA Standard 4.

21. A copy of the report will be attached to the Area Asset Register and the CFCD equipment log.

22. The Area RTC will instruct the Airwave Service Desk to instigate a stun on the unit and, if it is not recovered within 24 hours, the stun will be progressed to a kill.

23. Where it is thought that it is unlikely the terminal will be recovered within 24 hours a kill should be requested immediately.

24. The Team Leader (TL) / Higher Investigations Leader (HIL) will annotate the CFCD equipment log sheet with the details of loss/theft/tamper seal damage referring to the electronic report and including their signature and date of signature.

25. The original CFCD equipment log sheet will then be passed to the Area RTC.

26. The Area RTC will record subsequent actions on the next line below and will retain the sheet until the matter is resolved providing copies of the sheet to the Head of Radio Communications/Crypto Custodian (HRC) and the TL / HIL.

27. Any terminal subsequently found, or returned to the authorised user, must not be used on the Airwave network. The circumstances should be notified to the Area RTC or CFCD Criminal Investigations Radio Custodian who will advise what action will be taken in regard to the terminal in consultation with Airwave.

28. An ISSI number previously used in a lost, stolen or missing terminal must not be reused in any other terminal.

### **Terminals requiring repair or decontamination**

29. Faults discovered with radio terminals should be reported to the Area RTC who will report the fault to Airwave and request a replacement terminal if required. Airwave will arrange for the terminal to be collected and returned by courier.

30. The TL / HIL will record a brief description of activity taken on the next available line below.

31. Terminals that have been contaminated, for example, by blood or saliva should be placed in a sealed evidence bag using disposable gloves.

32. The authorised user should notify the Area RTC who will take action to notify Airwave and action will follow as in repairs to terminals.

### **Disposal of radio terminals**

33. Radio terminals must be disposed of by the manufacturer and the HRC should be notified where disposal is required. The HRC will liaise with Airwave and the manufacturers to facilitate disposal.

34. Where disposal of a terminal has taken place the details should be entered on the next free line of the CFCD equipment log sheet and should include date of disposal and signature of the TL / HIL on the local asset sheet and RTC on the area asset sheet.

35. Any remaining lines on the sheets should be deleted by ruling a line through them.

36. A copy of the sheet should then be forwarded to the Area RTC and Head of Communications

## **Communications**

37. Under no circumstances should Counter Fraud and Compliance Directorate (CFCD) transmit information over the Airwave Service network that is classified above Restricted, for more information see Radio Code of Practice (Radio CoP) [Appendix B](#).

38. Investigators should use short clear messages. If any person other than the officer having primary visual contact with the subject (eyeball) wishes to pass a message they must first ask permission. Strict radio discipline should be observed.

39. Each time it changes, it is imperative that the speed/direction of the subject is passed to the investigators following. It is advisable and of assistance to the convoy, if the eyeball gives road signs/identifiable places as the subject passes them. Those following can then confirm the route and judge their distance from the subject.

40. All investigators should ensure they are familiar with the [Surveillance Glossary](#) and [Identity Codes \(IC\)](#).

## **03 Code of Practice for Radio Terminals using The Airwave Interface Service**

### **Introduction**

1. The widespread use by hobbyists, criminals and the press of scanning radio receivers (scanners) has resulted in the need for Counter Fraud and Compliance Directorate (CFCD) to be able to prevent unauthorised people from 'listening in' on their radio messages, in order to maintain the integrity and effectiveness of their operations.

2. The introduction of the Airwave Service enables all authorised users to operate in a secure manner using any number of approved commercially available TERrestrial Trunked RAdio (TETRA) Airwave Service radio terminals.

### **TEA2 User Sub-Licence**

3. All Public Safety Organisations that use the Airwave Service must hold a TEA2 User Sub-Licence before they can be supplied with radio terminals. CFCD holds a TEA2 User Sub-Licence.

4. Central Sponsor for Information Assurance (CSIA) is the issuing authority and is based at the address below:

**[Redacted]**

5. To contact CSIA: E-mail: **[Redacted]**

### **Purpose and scope of the Code of Practice**

6. The Code of Practice (CoP) identifies approved procedures to ensure secure handling and use of the Airwave Service Interface. These procedures are to be adopted in the storage, issue, use and accounting and auditing of the Airwave Service radio terminals.

7. Counter Fraud and Compliance Directorate (CFCD) must use this CoP for all Airwave Terminals as a minimum standard to formulate local secure handling procedures. These procedures must be documented and may be subject to audit by the Airwave Accreditation Authority and the National ComSec authority.

### **Level of communication**

8. Under no circumstances should CFCD traffic above 'Restricted' be passed over the baseline Airwave Service network. It is not appropriate that information falling under the definition of confidential be passed over the Airwave network. Refer to [Appendix B](#) for security definitions.

### **Security of radio terminals**

9. Whilst every effort has been made to minimise the secure handling requirements of radio terminals it is imperative that Counter Fraud and Compliance Directorate (CFCD) maintains security of the Airwave Service radio terminals to ensure confidentiality, integrity and availability of speech and data during communication.

10. Any non-compliance with the requirements for the secure handling of radio terminals as set out in the Code of Practice (CoP) will increase the vulnerability to attack of the information carried by the radio system.

11. This may compromise CFCD operations locally or nationally and may put other authorised users and the public's safety at risk. Therefore procedures must be introduced and reinforced by CFCD to ensure the security of radio terminals.

## **Roles and responsibilities for Counter Fraud and Compliance Directorate**

12. The ultimate responsibility for security of the Airwave Service radio terminals lies with the Head of Counter Fraud and Compliance Directorate (CFCD).

13. The key principle is that there must be clearly defined roles and responsibilities for the security of the Airwave Service radio terminals within CFCD. The Head of CFCD is responsible for delegation of these roles.

## **Head of Radio Communications/Crypto Custodian**

14. A nominated Band E Manager within the CFCD Support Team will have national management responsibility for the security of the CFCD Airwave Service Radio terminals and software upgrade devices and will act as national co-ordinator for the Area Radio Terminal Custodians (RTC).

15. The Head of Radio Communications can delegate duties, as they deem suitable whilst maintaining accountability and will have a Band D deputy in post in their absence.

16. The Head of Radio Communications will seek written assurance every six months from Area RTC that they complied with their role and responsibilities.

17. The Department for Work and Pensions (DWP) have to have this custodian role to comply with National Technical Authority for Information Assurance (CESG) policy, as the terminals are Crypto items, contain details of internal/external talk groups.

18. Personnel fulfilling this role should attend an approved Custodian course and be security cleared as a minimum.

## **Area Radio Terminal Custodians**

19. Each Area will have a Band E RTC to liaise directly with the CFCD Head of Radio Communications. Communication arrangements with Radio Terminal Manufacturers, the Airwave Accreditation Panel Secretariat and other Government Departments will be undertaken through the CFCD Head of Radio Communications.

20. The name and contact numbers of the CFCD National and Area RTCs and deputies must be made available to all CFCD users and Airwave Customer Service Desk.

21. A change in Area / Deputy Custodian must be notified to the National Custodian who will facilitate the change.

22. Details, which need to be provided, are:

- name
- place of Work
- contact phone number
- contact fax number
- mobile phone number
- pager number

23. The address of the Airwave Service Provider is:

**[Redacted]**

## **Responsibilities of CFCD Area Radio Terminal Custodians**

24. CFCD Area RTC shall be responsible for the following but can delegate tasks, as they deem suitable, whilst maintaining accountability. They must have a Band D deputy in post in their absence:

- ensuring adequate physical security of all centrally stored Airwave Service radio terminals
- maintaining an Asset Register showing the location of each Airwave Service radio terminal and any item of ancillary equipment to, at a minimum, Area level. CFCD will maintain their Asset Registers to Team Leader (TL) / Higher Investigations Leader (HIL) level
- conducting an audit of all the Airwave Service radio terminals on a regular basis, at a minimum six monthly for radio terminals. If a physical check by the Area RTC is not feasible then written assurance must be provided every six months to the Area RTC from their TL / HIL that all radios are physically accounted for. The Area RTC asset sheet should be notated the check has been undertaken
- ensuring that authorised users adhere to all the procedures outlined in this Code of Practice (CoP)
- if applicable, making spot checks at TL / HIL level to ensure that the teams are meeting their responsibilities
- maintaining a record of all disabled radio terminals
- reporting loss of Airwave Service radio terminals to the Service Provider CFCD Head of Radio Communications and CESG. Under no circumstances should any other person than the Area custodian / deputy when absent contact Airwave/CESG
- arranging the repair or disposal of Airwave Service radio terminals at an approved secure facility
- investigating and reporting incidents where tamper seals on radio terminals have been tampered with or broken. If this occurs the terminal should be stunned immediately and the [Radio Incident Report \(RIR1\) form \(link is external\)](#) must be completed.
- issue and ensure compliance with this CoP.

### **Line Managers (TL / HIL)**

25. Line Managers are responsible for a sub-set of the above ensuring:

- their investigators are trained in the procedures outlined in the CoP
- they are responsible for ensuring that any losses of Airwave Service radio terminals are reported immediately to the Area Custodians
- reporting incidents where tamper seals on radio terminals have been tampered with or broken. If this occurs the Area Custodian should be notified immediately
- they are responsible for ensuring that their investigators maintain strict radio discipline
- conducting an audit of all the Airwave Service radio terminals, at a minimum monthly then notating [Appendix D](#) and [Appendix E](#). If a monthly physical check by the TL / HIL is not feasible then written assurance must be provided by the user to the TL / HIL that all radios are physically accounted for. A physical check by the TL / HIL must be undertaken at least six monthly.

26. Users are directly responsible for the security of any Airwave Service equipment issued to them and must follow the Physical, Procedural and Electronic Security procedures outlined in this CoP.

27. In particular the procedures on reporting lost, stolen or missing radio terminals outlined in this CoP must be followed.

## **Users**

28. Users are required to maintain strict radio discipline when using the Airwave Service radio terminals and an audit trail is provided monthly by Airwave providing usage data.

29. DWP users of the Service are reminded of the standards of behaviour expected when using DWP systems. Access to specific talk groups must be for operational reasons only.

30. If inappropriate listening is suspected calls may be monitored in line with DWP Electronic Media Policy and may result in disciplinary action.

## **Security of Airwave Service radio terminal equipment**

### **Personnel Baseline Security Check**

31. All users of the Airwave Service must have a Personnel Baseline Security Check or equivalent. All Department for Work and Pensions (DWP) staff have this level of check, in accordance with the current Cabinet Office guidance, as a standard recruitment check at time an individual is employed, see also Sharing of Radios Terminals and [Appendix C](#).

### **Personal Responsibility of Users**

32. Radio terminals must be handled with due care and diligence, as their loss or theft could allow unauthorised persons to [Redacted].

[Redacted]

### **Storage**

34. Radio terminals must be stored in facilities that are lockable and approved for the storage of restricted items in DWP buildings

35. All radio terminals in storage should be recorded and the accounts audited regularly, minimum once every month for Team Leader (TL) / Higher Investigations Leader (HIL), six monthly for Area Radio Terminal Custodians (RTC))

36. Tamper seals should also be examined. Any evidence of tampering must be reported to the CFCD Area RTC without delay, who will investigate and report findings to CINRAS, see contact details on [Radio Incident Report \(RIR1\) form \(link is external\)](#).

### **Building Security**

37. All official buildings and rooms storing Airwave Service radio terminals must afford adequate physical protection to the equipment. That is they are lockable and offer a degree of protection suitable for restricted.

38. Airwave Service handheld radio terminals should not be stored in unapproved buildings and rooms. Under operational conditions when using a handheld radio terminal it should not be left unattended.

39. As a minimum this should be a lockable cabinet in a secured building. In the exceptional circumstance when officers store their individual terminals at their home addresses or stay away location, the security of the equipment is the responsibility of the radio user; every effort must be taken to secure their terminals whilst left unattended.

### **Vehicle Security**

#### **Unattended Fitted Radio Vehicles**

40. If the vehicle is parked and unattended it should be locked and secured having first logged off the vehicle fitted radio terminal.

41. When a vehicle is used which is fitted with a radio vehicle terminal, the user must complete the [CFCD car terminal log sheet](#) / Appendix E signing for the fitted radio. The user will then be accountable for the radio.

42. When the vehicle is returned to the office/secure parking, the user 'signs off' on the CFCD car terminal log sheet / Appendix E and their accountability ends there.

43. If the vehicle is driven by different officers during the course of operations accountability will be with the driver at the present time, handover signatures are not required at the time of an operation.



44. The CFCD car terminal log sheet / Appendix E must be kept with the vehicle log at all times.

## **Security of Hand Portable Radio Terminals in Vehicles**

45. Hand portable Radio Terminals should not be left in unattended vehicles whether locked or unlocked.

## **Vehicles Involved in Services/Repairs at Third Party Premises**

46. When a vehicle is involved in service/repair, the user should log-off and then switch off the vehicle fitted radio terminal. The radio terminal should then be disabled either by removal of the crypto box or via the Area RTC having the terminal temporary disabled / stun.

47. The Area RTC should be notified in advance who will request a stun to be carried out by the Airwave help desk. Additionally the personnel and procedural security of the third party premises should be adequate to prevent the casual or opportunistic theft of the terminal from the vehicle.

48. If a vehicle is recovered to insecure premises the vehicle fitted radio terminal must be disabled / stunned immediately.

49. Arrangements should be made for the removal of the terminal as soon as reasonably practicable and its recovery to secure premises.

50. Before the vehicle becomes operational upon return a serviceable radio terminal shall be installed. A note of the replaced and replacement radio terminals should be made as part of the Area RTC accounting and auditing procedures.

51. If a vehicle is involved in an accident that renders it unserviceable, and occupants are unhurt the previous two paragraphs guidance must be applied when servicing the vehicle.

52. If the occupants are incapacitated the terminal should be 'stunned/killed' centrally at the earliest opportunity after the accident has been reported.

## **Electronic Security**

53. It is imperative that the procedures on reporting lost, stolen or missing radio terminals are strictly adhered to.

54. An Individual Short Subscriber Identity (ISSI) the unique identity number for each terminal, previously used in lost, stolen or missing terminals must not be reused in another terminal.

## **Sharing of Radio Terminals**

55. Radio terminals can be shared with partner organisations, for example, Local Authorities (LAs) for specific exercises where operational needs dictate and there is a Counter Fraud and Compliance Directorate (CFCD) presence.

56. Training on the use of Radio terminals must be undertaken by holders of a TEA2 licence, the Department for Work and Pensions (DWP) hold a TEA2 licence. Terminals cannot be shared to external organisations for CFCD training purposes unless the organisation is a TEA2 licence holder.

57. Authority on CFCD led exercises should be provided in writing by the Team Leader (TL) / Higher Investigations Leader (HIL) as part of the Fraud Drive business case, providing specific details who and when the radios will be allocated to, and duration.

58. If terminals are to be shared with partner organisations as part of CFCD led surveillance activities the details should be included in the Regulation of Investigatory Powers Act (RIPA) 2000 application.

59. If terminals are to be shared with partner organisations for arrest cases the details should be included in the [PA1 \(link is external\)](#)/[PA1S \(link is external\)](#) application.



60. Use of Radio terminals on externally led, for example by the Local Authority (LA), exercises/surveillance should be authorised by the CFCD TL / HIL.

61. A copy of the LA Fraud Drive Business case/RIPA application in England and Wales only, providing adequate details of who and when the radios will be allocated to, and duration should be sent to the TL / HIL.

62. The TL / HIL should countersign and retain the business case/RIPA if satisfied the radios can be shared, at this stage. Conditions as per last paragraph on the [Appendix C](#) must also be satisfied before the terminals are shared. The TL / HIL should then notify the LA that the radio terminals can be shared or provide reason why not.

63. Use of Radio terminals on partner led exercises/surveillance should be authorised on the CFCD Fraud Drive Business case or the CFCD/LA RIPA application.

64. In England and Wales, the surveillance can be authorised on a [RIP1 \(link is external\)](#) completed by CFCD covering both CFCD and LA investigators.

65. In Scotland CFCD would complete a [RIP1 \(link is external\)](#) under RIPA 2000 and the LA would complete a separate [RIP1 \(link is external\)](#) under RIP(S)A 2000. Use of radio terminals in Scotland will always be authorised on the CFCD RIP1.

66. The following action must always be taken irrespective if CFCD or the partner organisation has the lead.

67. Appendix C must be forwarded to the partner organisation and requirements met and endorsed before the terminal is shared. It is sufficient when Appendix C has being completed further Appendix C for the same user are not required.

68. The original completed certificate, Appendix C, should be retained by CFCD with the [CFCD equipment log sheet](#) / Appendix D. The recipient should be thoroughly briefed on the Code of Practice (CoP) including secure handling procedures, loss procedures, ambience listening and be competent in radio communication protocols.

69. The terminals should be signed for and booked back in by the user on the Appendix D.

## **Reporting lost, stolen or missing radio terminals**

70. If it is discovered that an Airwave Service radio terminal whether handheld or vehicle fitted is lost, stolen or missing, the procedures outlined in the Code of Practice (CoP) be carried out.

71. The key actions for users are:

- If any authorised user becomes aware that a vehicle fitted radio terminal or handheld radio terminal has been lost, stolen or is missing, the matter must be reported to Area Radio Terminal Custodian (RTC) without delay. If out of office hours the Counter Fraud and Compliance Direction (CFCD) Criminal Investigations Radio Terminal Custodian (RTC) must be notified and their Manager as soon as practicable. The Manager must record actions taken on the relevant [CFCD equipment log sheet](#) / Appendix D
- authorised users must not attempt to cover up the fact that an Airwave Service radio terminal whether vehicle fitted, handheld or covert body fit has been lost, stolen or is missing. Lost, stolen or missing radio terminals must be reported without delay in order to ensure that CFCD and the Airwave Service are not unnecessarily compromised and to maintain the security of CFCD information within the Airwave Service.

72. The key actions for Line Managers and users are:

- in the event of a lost, missing or stolen radio terminal, immediate action must be taken to maintain the confidentiality, integrity and availability of the Airwave Service. Therefore the CFCD Area RTC must be informed without delay so that they then instruct Airwave Service Desk, who provide a 24/7 service, to perform a 'Stun' / 'Kill' and the Air Interface connection can be disabled
- dependant on the individual circumstances a terminal will be stunned or killed. If it is anticipated the terminal will be recovered within 24 hours a stun should be instigated. If it is

unlikely the terminal will be recovered a kill should be activated. A kill should always follow a stun if the terminal is not recovered within 24 hours

- it is important that there is an attempt to locate the radio terminal before it is reported as lost, missing or stolen. The Cabinet Office (CSIA) state, any attempts to trace it should take no more than one hour before the item is reported to the Area Custodian
- once a radio terminal is confirmed as lost, missing or stolen, the CFCD Area RTC must be informed as soon as practicable so that they can contact the Airwave Service Help Desk to arrange for a stun/kill
- any radio terminal subsequently returned to the user, after it has been declared lost, missing or stolen, must not under any circumstances be used on the Airwave network until the CFCD Area RTC has been informed, so that the circumstances of the loss can be considered. Final authority on whether a recovered radio terminal can be reused on the network lies with the Accreditation Authority.

## **Loss Reporting Process**

73. Initial notification of lost or stolen radios should be made to the CFCD Area RTC or their deputy only. The Area RTC will telephone Airwave Service CSD: telephone [Redacted] for the stun action to be taken.

74. As a minimum the radio ISSI should be reported to enable the terminal to be deleted from the relevant databases.

75. [Redacted]

## **Repair of the Airwave Service Radio Terminals**

76. The procedures outlined below should be followed to enable users to return radio terminals as faulty and to ensure that this is recorded. Records must be made when a radio terminal is returned to Airwave for repair and must not be sent to other repair facilities.

## **Courier Arrangements**

77. The following security requirements apply where a radio terminal is sent to a facility in the UK:

- The package must be securely sealed to prevent tampering and marked 'ADDRESSEE ONLY' – the packaging must not be marked with a protective marking.
- A guaranteed 24 hour tracked courier service should be used for method of delivery and must be monitored by the Area Radio Terminal Custodian/Deputy.

78. Counter Fraud and Compliance Directorate (CFCD) must ensure the same requirements are applied to the return of the radio terminal.

## **Interim Replacement radio required?**

79. Area Radio Terminal Custodians (RTCs) report faults to Airwave via the Helpdesk and request a replacement radio. The process to obtain the replacement is:

- Airwave stun/remove the terminal from fleet map, from authentication being activated this renders the terminal unusable
- Airwave make courier arrangements from any specified address, note delivery has to be signed for
- Sepura will programme a replacement terminal with the original profile.
- terminal delivered to specified address.

## **Interim replacement radio not required**

80. If an interim replacement radio is not required following the fault being reported the process for repair is:

- Airwave arrange the collection of a terminal
- Sepura assess the fault
- repair or replace

- courier back to site

## **Decontamination of terminals**

81. Where terminals are contaminated, for example by blood or saliva. The terminal should be placed in a sealed envelope, using disposable gloves.

82. The Radio Terminal Custodian (RTC) should then contact Airwave Service Help Desk advising that a terminal requires cleaning after been contaminated. The process for repair of radio terminals should then be followed.

## **Re-use and disposal of Airwave Service Radio terminals**

83. Radio terminals must be disposed of by the manufacturer, Sepura, who have a standard and secure process for disposal in accordance with industry standards.

84. Radio terminals must not be sold or passed on to another organisation for re-use. If disposal of radio terminals are required this should be undertaken in liaison with the National Radio Terminal Custodian (RTC) who will liaise with Airwave and the equipment provider.

## **Accounting and audit**

### **Accounting**

85. Radio Terminals must be accounted for at every stage in the issuing, return and maintenance cycle.

86. Every radio terminal is an accountable item and as such the Counter Fraud and Compliance Directorate (CFCD) Area Radio Terminal Custodians (RTC) and Team Leaders (TL) / Higher Investigations Leaders (HIL) must know the whereabouts of each radio terminal in their team and who is responsible for it, for example, whether it is in central storage or issued for use.

87. It is essential that comprehensive [CFCD Equipment log sheet](#) / Appendix D and [CFCD Car terminal log sheet](#) / Appendix E are maintained at Area and Team level and reviewed 6 monthly by the Area RTC in line with the approving authority policy.

88. The accounting system must record each stage of distribution of radio terminals to vehicles, including repair, as referred to in sub-section on Vehicle Security.

89. Accounting must also encompass those radio terminals that have been returned for repair, including those that have been stunned or have had their subscription removed by the service provider.

90. Accounting must also record those lost, stolen or missing radio terminals that have been stunned and/or had their subscription removed by the service provider.

### **Audit**

91. An audit of all the accounts of Airwave Service radio terminals used by CFCD must take place on a regular basis. Requirements state a minimum of six months. In the case of CFCD Area RTC terminals a minimum of every six months, and monthly for TLs / HILs.

## **Radio Communications Discipline**

92. Airwave Service radio communications are vulnerable to Traffic Analysis (T/A), this is where an attacker monitors encrypted radio traffic and through the analysis of message characteristics such as length, occurrence, location, timing and ownership, derives information on user activities without the need for decryption.

93. In order to effectively counter the T/A attack all users are required to exercise strict radio discipline when using the Airwave Service radio terminals in order to minimise the traffic available to such analysis.

94. All communications on the system shall be kept to a minimum with an emphasis on brevity and operational necessity.

## **Direct Mode**

95. Airwave guarantees 96% coverage of the United Kingdom (UK) land mass. For the locations where the Airwave Service Trunk Mode is not available Department for Work and Pensions (DWP) has unique access to a Direct Mode frequency. This allows investigators within limited distance to communicate with each other.

96. Direct Mode should only be used when the Airwave Service Trunk Mode is not available or users need to partition themselves away from Trunk Mode during an operation.

97. Direct Mode is located in each of the Counter Fraud and Compliance Directorate (CFCD) Radio Terminal Files labelled GDWPDMO.

98. DWP Direct Mode is configured as Talk group 1 / select 1 on the Remote Control Unit (RCU) for DWP Radio files. All CFCD Radio Terminals have one as a hot key for direct access to DWP Direct Mode

## **Police Talk groups**

99. Counter Fraud and Compliance Directorate (CFCD) has been [Redacted]

## **Police Sharers Hailing Talk group**

[Redacted]

## **GOV1**

[Redacted]

## **Emergency Services Talk Groups - 1 – 3**

[Redacted]

## **Inter Agency Talk group**

[Redacted]

## **Police Mutual Aid Talk groups**

[Redacted]

## **Emergency Services Direct Mode - XDM ES 1 to 4**

[Redacted]

## **Police Direct Mode**

[Redacted]

## **Glossary**

138. A number of terms are used in this Code of Practice may not be familiar. The more common ones are listed below:-

Accounting	Activity of keeping official records of the issue, location and status of Airwave Service radio terminals
A/I	Air Interface
Audit	To make an official examination of the Airwave Service radio terminal accounts
PBSC	Personnel Baseline Security Check: not a formal security clearance as such it provides a level of assurance as to the trustworthiness and integrity of an individual. All DWP staff has this as part of Departmental recruitment policy.
CESG	The National Technical Information Security Authority
CINRAS	Communication, Incident, Notification, Reporting and Alerting Scheme.
CoP	Code of Practice
CSD	Consolidated Service Desk – Airwave Help desk
Discreet Listening	Listen to an individual radio terminal communication.
DMO	Direct Mode Operations
Gateway	A base station which allows a radio terminal operating in DMO, or a non-TETRA radio terminal/network, to communicate with the Trunk Mode Operation network and vice-versa
ISSI	Individual Short Subscriber Identity – Identity number for a terminal
Integrity	Protection against modification of information

Kill	Permanent disabling of a radio terminal requiring return to the manufacturer
Mobile Radio Terminal	A radio terminal permanently fixed in a vehicle or similar
Portable Radio Terminal	A handheld radio terminal, not fixed to a vehicle
PSO	Public Safety Organisation
Software Upgrade Device	Equipment used to upgrade software on Airwave Service Radio Terminals
Stun	To temporarily disable a radio terminal
Tamper Seal	A seal, which when broken, indicates the radio terminal has been subject to unauthorised access for example, tampering
Radio Terminal	Mobile or hand portable radio
TEA2	TETRA Encryption Algorithm No.2
TETRA	TErrestrial Trunked RAdio, an open digital trunked radio standard
TMO	Trunked Mode Operations
T/A	Traffic Analysis: Collection of radio transmissions and analysis of message characteristics such as length, occurrence, location, timing and ownership, thereby providing intelligence without decryption

User	All authorised persons using radio terminals, including police officers, special police constables, firemen, military personnel, and civilian employees.
Vehicle	Land, sea borne, and airborne vehicles used for PSO operations

## Appendix A - Incident Reporting Form

### Restricted

1. The compromise of this information or material would be likely to:

- affect diplomatic relations adversely
- cause substantial distress to individuals
- make it more difficult to maintain the operational effectiveness or security of UK or allied forces
- cause financial loss or loss of earning potential to, or facilitate improper gain or advantage for, individuals or companies
- prejudice the investigation or facilitate the commission of crime
- breach proper undertakings to maintain the confidence of information provided by third parties
- impede the effective development or operation of government policies
- breach statutory restrictions on disclosure of information
- disadvantage government in commercial or policy negotiations with others
- undermine the proper management of the public sector and its operations.

### Confidential

2. The compromise of this information or material would be likely to:

- materially damage diplomatic relations, that is, to cause formal protest or other sanctions
- prejudice individual security or liberty
- cause damage to the operational effectiveness or security of UK or allied forces or the effectiveness of valuable security or intelligence operations
- work substantially against national finances or economic and commercial interests
- substantially undermine the financial viability of major organisations
- impede the investigation or facilitate the commission of serious crime
- seriously impede the development or operation of major government policies
- shut down or otherwise substantially disrupt significant national operations.

## Appendix B - Security Levels

P45's **must** be treated as Ephemeral.

Once relevant action has been completed a P45 **must** be destroyed on day 28 (4 weeks). Paper copies need to be retained locally until destruction on day 28 (4 weeks).

Digital copies should be classified as ephemeral on DRS and will automatically be destroyed on day 28 (4 weeks).

For further information see: [Managing Customer Records](#).

1. To meet the requirements of the 'Basic Check' for loan of CFCD



Radio Terminals, the following must be met as a minimum for the person loaning the Terminal:

## Identity Check

2. For new applicants, or individuals with less than three years continuous employment with the same organisation, proof of identity must be confirmed as below. In all cases, individuals should be required to provide using original documents, either;

- full 10 year passport, or
- Two of the following:

- British driving licence
- P45
- birth certificate - issued within six weeks of birth
- cheque book and bank card - with three statements and proof of signature
- credit card - with three statements and proof of signature
- credit card - with photograph of the individual
- proof of residence - such as a gas, electricity, water or telephone bill
- references

3. A check of personnel records and references from all /supervisor's line managers has been undertaken for individuals continuously employed for more than three years.

4. References for individuals, who have been employed by the organisation for less than three years have been obtained from previous employers, and a personal referee nominated by the individual, to cover the three year period.

## Criminal Record Declaration

Individuals have been asked and declared any "unspent" convictions as defined in the Rehabilitation of Offenders Act (1974).

**Full Name of Radio Terminal to be loaned to .....**

**Organisation Name/Address**

.....  
.....  
.....

**I confirm as a minimum the above checks have been undertaken for the above named individual**

**Managers Name.....**

**Signature.....**

**Date.....**

## Appendix C - Basic Check Requirement Certificate for loan of DWP CFCD Radio Terminals

Item	Model Number	ISSI Number

I confirm receipt of the above equipment and am aware of my responsibilities with regards to the security and correct use of the item; I also confirm that the item was in good working order when I received it. I know that should the item be lost/stolen/damaged whilst in my possession I must report it to the designated equipment officer, unit manager, and security adviser immediately.



ITEM	SERIAL NUMBER	CAR REGISTRATION NUMBER	ISSI NUMBER
Radio Car Terminal			

I confirm receipt of the above equipment and am aware of my responsibilities with regards to the security and correct use of the item; I also confirm that the item was in good working order when I received it. I know that should the item be lost/stolen/damaged whilst in my possession I must report it to the designated equipment officer, unit manager, and security adviser immediately.

<b>LOG OUT</b>	<b>LOG IN</b>
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DA TE	TI ME OU T	NAME OF OFFIC ER	SIGNAT URE	DA TE	TI ME IN	NAME OF OFFIC ER	SIGNAT URE	COMME NTS


# Search and Seizure

## 00 Introduction

### Legislation

#### Police and Criminal Evidence Act 1984

1. The Police and Criminal Evidence (PACE) Act was written primarily to govern police activities but also applies to other investigating authorities, for example, Department for Work and Pensions and Local Authority (LA) investigators who must comply with the appropriate provisions.
2. PACE only applies in England and Wales (E&W). Where appropriate in this guidance, specific reference to issues in Scotland will be mentioned.
3. PACE requires that persons other than police officers who are charged with the duty of investigating offences or charging offenders shall in the discharge of that duty have regard to any relevant provisions of PACE and its Codes Of Practice (COP).
4. This applies to investigators who, in the course of their duties, must adhere to the PACE COP. Failure to comply with these codes may result in:
  - difficulty in introducing evidence
  - judicial criticism
  - adverse media comment
  - if serious, disciplinary proceedings against the investigator involved
  - refusal by the court to admit the evidence leading to the case being withdrawn or the acquittal of the defendant.

#### Criminal Procedure (Scotland) Act 1995 / Criminal Law (Consolidation) (Scotland) Act 1995

5. In Scotland there is no direct statutory equivalent to PACE. The law regulating the conduct of investigations is underpinned by common law. The Criminal Procedure (Scotland) Act 1995 was written primarily to consolidate the statutory provisions relating to criminal procedure, although some police functions are covered.
6. Investigators need to be aware of the appropriate provisions.

## 01 Warrant application process

### Investigator role

1. The Police and Criminal Evidence Act (PACE) Code Of Practice (COP) states that the police have the duty to ensure that information used to obtain a warrant is correct and satisfies the requirements of the Magistrate/Sheriff responsible for issuing the warrant.

2. The role of the investigator is **strictly in an advisory capacity only**, to identify and examine property subject to potential seizure by the police.

3. Under no circumstances must the investigator be actively involved in the search of premises or seizure of property. This is Counter Fraud and Compliance Directorate (CFCD) policy and must be adhered to at all times.

4. The investigator must complete a [PA1 \(link is external\)](#)/[PA1\(S\) \(link is external\)](#) ensuring that the:

- search and seizure box is ticked
- information supplied for the grounds on which search and seizure is necessary includes that:
  - an indictable offence has been committed
  - there is material on the premises and specifies the nature of that material, explaining how and why it is relevant
  - the material is likely to be of substantial value to the investigation of the offence
  - the type of warrant being applied for
  - the material searched for does not consist of or include items subject to legal privilege, excluding material or special procedure material, for more information see [Appendix 1](#)
  - information supplied is accurate, recent and not provided maliciously or irresponsibly. An application may not be made on the basis of information from an anonymous source if corroboration has not been sought.

This list is not exhaustive.

5. Once the PA1/PA1(S) is completed it must be passed to the Team Leader (TL) / Higher Investigations Leader (HIL) for consideration prior to forwarding to the Senior Investigations Leader (SIL) for authorisation.

6. This action must be recorded as an activity on FRAIMS, see [FRAIMS Guidance – Search and Seizure – Complete PA1](#).

7. When the investigator receives an activity from their TL / HIL or SIL, the authorising manager approving or rejecting their request, they must update the activity on FRAIMS, see [FRAIMS Guidance – Search and Seizure – Case Owner's Actions](#).

8. At any point during the authorisation process, where it has been identified that there is no longer a need for a search warrant, the investigator must update the activity on FRAIMS, see [FRAIMS Guidance – Search and Seizure – Search Warrant no Longer Required](#).

9. Note: It is essential that any risks in undertaking search and seizure are identified on the application, where possible.

## **Combined arrest and search and seizure requests**

10. Where a combined application is being made for both arrest and search and seizure actions, a single PA1/PA1(S) 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](#).

11. To aid the authorising officer, 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.

## **Team Leader or Higher Investigations Leader role**

12. On receiving a [PA1 \(link is external\)](#)/[PA1\(S\) \(link is external\)](#) in the 'My Activities' view, the Team Leader (TL) / Higher Investigations Leader (HIL) must review the reasons for the application.

13. If the TL / HIL supports the request, they associate the authorising officer to the case for their authorisation and update the activity on FRAIMS, see [FRAIMS guidance – Search and Seizure – Application Approved](#).

14. If the TL / HIL rejects the application, or requires more information before making a decision, they must update the activity on FRAIMS, see [FRAIMS guidance – Search and Seizure – Application Rejected](#).

## Authorising Officer role

15. The authority to approach the police, and request they apply for a warrant to search on our behalf, is the responsibility of the authorising officer. The authorising officer must be of grade Band E, or above.

16. In considering whether to authorise an approach to the police for a search warrant, the authorising officer must consider the necessity and proportionality. Financial Investigation Unit (FIU) should be present at this stage, particularly where it is a high value case or has the potential for substantial assets or cash.

17. For the arrest of a person and/or search of premises/ seizure of property, investigators must complete the [PA1 \(link is external\)](#)/[PA1\(S\) \(link is external\)](#). Completed forms must be forwarded to an authorising officer to authorise the approach to the police for a search warrant.

18. Search and seizure must not be undertaken unless it is necessary and proportionate to the alleged offence and has been authorised by the authorising officer.

19. On receiving a PA1/PA1S in the 'My Activities' view, the SIL must review the reasons for the application.

20. If the SIL supports the request, they update the activity on FRAIMS, see [FRAIMS guidance – Search and Seizure – Approve Application](#).

21. If the SIL rejects the application, or requires more information before making a decision, they must update the activity on FRAIMS, see [FRAIMS guidance – Search and Seizure – Reject Application](#).

22. Note: The police must be made fully aware that the role of Department for Work and Pensions is strictly in an advisory capacity and that investigators must **not** be actively involved in the search of premises or seizure of property. This must be done at the earliest opportunity. It should also be reinforced by inclusion in the pre-search and seizure briefing.

## Information required for the application for a warrant

### England and Wales

23. Once the authorising officer has accepted the [PA1 \(link is external\)](#)/[PA1\(S\) \(link is external\)](#) application and informed the investigator of their decision, the police must be supplied with sufficient information to enable them to discharge their duty to ensure that information used to obtain a warrant is correct and satisfies the requirements of the Magistrate responsible for issuing the warrant, see [FRAIMS guidance – Search and Seizure – Send details to police](#).

24. The code states that the police have the duty to ensure that information used to obtain a warrant is correct and satisfies the requirements of the Magistrate responsible for issuing the warrant, therefore investigators must ensure that information supplied to the police confirms:

- that an indictable offence has been committed, see [Retention and disposal of property](#)
- that there is material on the premises and specifies the nature of that material, explaining how and why it is relevant
- that the material is likely to be of substantial value to the investigation of the offence
- that the material searched for will not consist of or include items subject to legal privilege, excluded material or special procedure material, see [Appendix 1](#) for description of such material

- that information supplied to the police officer is accurate, recent and not provided maliciously or irresponsibly. An application should not be made on the basis of information from an anonymous source if corroboration has not been sought.

25. The police make a decision based on the information provided as to whether they will apply for a search warrant. Details of the decision the police make must be recorded on FRAIMS, see [FRAIMS guidance – Search and Seizure – Receipt of information from the police](#)

## **Scotland**

26. Once the authorising officer has accepted the PA1(S) application and informed the investigator of their decision, the police must be supplied with a subject sheet and, if available, a draft of the warrant for the particular Sheriffdom, see [Appendix 2](#).

27. Ensure that information used to obtain a warrant is correct and satisfies the requirements of the Procurator Fiscal/Sheriff responsible for craving/signing the warrant, see [FRAIMS guidance – Search and Seizure – Send details to Police](#).

28. The police have a duty to ensure that information provided to the Procurator Fiscal in order to obtain a warrant is correct and proportionate to the crime and satisfies the requirements of the Sheriff responsible for issuing the warrant, therefore the investigator must ensure that the information supplied to the police confirms:

- that an offence has been committed, detailing the circumstances of the crime
- the type of warrant sought – common law or statutory
- the full address of the property to be searched and the occupier's details
- what is being searched for, explaining why it is relevant and necessary to obtain
- the grounds for reasonable suspicion and evaluation of that information, confirming that it is accurate, recent and not provided maliciously or irresponsibly.

29. The police make a decision based on the information provided as to whether they will apply for a search warrant. Details of the decision the police make must be recorded on FRAIMS, see [FRAIMS guidance – Search and Seizure – Receipt of information from the police](#).

## **Naming of officers on warrants**

30. When asking the police/Procurator Fiscal to apply for a warrant, investigators can request that they are identified on the warrant as 'An officer of the Department for Work and Pensions'. However, it is open to the court/Procurator Fiscal/Sheriff to insist that the warrant identifies an investigator by name.

31. Should any officer not wish to be named on a warrant, then the lead investigator should submit an alternative officer's names.

32. In the event of a court/Procurator Fiscal/Sheriff insisting that an investigator has to be individually named on warrants, anyone who refuses must not participate in the search.

33. In England and Wales, an exemption to this may be requested when the warrant is applied for, for example, when an investigator reasonably believes that the disclosure of their name on a warrant may put them in danger. In this instance they may be identified by their staff number. See PACE Code D paragraph 2.18.

## **Application for a warrant refused**

34. If the Magistrate/Sheriff refuses to authorise an application for a warrant, no further application may be made to search the premises unless supported by additional evidence.

35. Details of the Magistrate's/Sheriff's decision to reject the application must be recorded on FRAIMS, see [FRAIMS guidance – Search and Seizure – Receipt of information from the police](#).

## **Execution of warrants**

36. It is essential that the investigator reads the warrant to ensure that the details are correct before accompanying a police officer during the execution of a search warrant.



37. In England and Wales, Section 16 of PACE Act 1984 deals with the execution of search warrants:

- a warrant to enter and search premises must be executed by a police officer
- such a warrant may authorise persons to accompany any police officer who is executing it
- whenever practicable, and prior to the start of the search, the supervising police officer must identify any accompanying persons to the occupier of premises and explain their role in the process
- entry and search under a warrant must be within three months, Section 114 of the SOCPA 2005 refers, but ideally should be as soon as is practicable, from the date of issue of that warrant
- searches must be made at a reasonable hour unless this might frustrate the purpose of the search
- premises must be searched only to the extent necessary to achieve the object of the search
- a search under warrant must not continue under the authority of that warrant once all the specified material has been found or the Officer in Charge (OIC) of the search is satisfied that it is not on the premises.

38. Although a Counter Fraud and Compliance Directorate (CFCD) officer authorised to accompany a police officer has the same powers as that officer in the execution of the warrant, **CFCD policy** is that they must act only in an advisory capacity.

39. The police officer in charge must be made aware that CFCD officers **must not** actively participate in the search of premises or seizure of property. The police officer must retain overall responsibility for the execution of the warrant.

40. In Scotland, the execution of warrants is mainly governed by common law. Previous case law suggests that the principles of fairness and good faith on the part of the searching officers are paramount therefore the above factors must be taken into consideration.

41. In all cases a police officer must control and execute the warrant and manage and maintain the production schedule.

## **Appendix 1 – Legal privilege, excluding material and special procedure material**

### **England and Wales only**

1. Section 8(1) (d) of the Police and Criminal Evidence Act (PACE) 1984 states items subject to legal privilege, excluded material or special procedure material shall not be included as items in the application for a search warrant and nor should such items be seized following a search of premises.

### **Legal privilege**

2. Legal privilege is dealt with under Section 10 of PACE. It covers communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client.

### **Excluded material**

3. Excluded material is dealt with under sections 11 – 13 of PACE. There are three types of material which are classed as excluded material:

- Personal records – which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence.
- personal records means documentary and other records concerning an individual (whether living or dead) who can be identified from the document and relates to his physical or mental health, spiritual counselling or assistance given or to be given to him, or counselling or assistance given or to be given to him, for the purposes of his personal welfare by any voluntary organisation (or from a person whose job it is to provide the counselling) or by an order of the court.

- the material is held in confidence if the person who holds the material is subject to an express or implied undertaking to hold it in confidence, or there is a restriction on disclosure or an obligation of secrecy contained in any enactment.
- journalistic material means material acquired or created for the purposes of journalism. Material is only journalistic material if it is in the possession of a person who acquired or created it for the purposes of journalism. A person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.
- a person holds journalistic material in confidence if he holds it subject to such an undertaking, restriction or obligation and it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.
- Human tissue or fluid – which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence. The material is held in confidence if the person who holds the material is subject to an express or implied undertaking to hold it in confidence, or there is a restriction on disclosure or an obligation of secrecy contained in any enactment.
- Journalistic material – which a person holds in confidence and which consists of documents or records other than documents.

### **Special procedure material**

4. Special procedure material is dealt with under Section 14 of PACE, and covers two types of material:

#### **Type 1**

5. Material other than items subject to legal privilege and excluded material, in the possession of a person who acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office; and holds it subject to an express or implied undertaking to hold it in confidence; or to a restriction on disclosure contained in any enactment.

- where material is acquired by an employee from his employer and in the course of his employment, or by a company from an associated company, it is only special procedure material if it was special procedure material immediately before the acquisition.
- where material is created by an employee in the course of his employment, it is only special procedure material if it would have been special procedure material had his employer created it.
- where material is created by a company on behalf of an associated company, it is only special procedure material if it would have been special procedure material had the associated company created it.

#### **Type 2**

6. Journalistic material other than excluded material.

### **Bank statements and financial records/documents**

7. On the face of it bank statements and or financial records/documents will be material which should be included on the search warrant and which should be seized following a search of premises.

8. It is highly unlikely that such material should not be included on the search warrant (or seized) on the grounds that the material is subject to legal privilege or is excluded material.

9. It is possible, however, that such material could be categorised as special procedure material and should therefore should not be included on the search warrant or seized from the premises.

10. For such material to be categorised as special procedure material the conditions set out above under section 14 of PACE will have to be satisfied, namely:

- is the material created in the course of trade, business, profession etcetera, the answer will usually be yes, and

- is there an express or implied undertaking to hold it in confidence, If the answer is no, it will not be special procedure material. If the answer is yes it could be special procedure material procedure.

11. In practice it will usually not be apparent to the police officer or investigator, at the point of seizure, that such material could be special procedure material. If on further enquiry it transpires that the bank statements etc. are special procedure material it should be returned to the person from whom they were seized as soon as possible.

## Appendix 2 - Draft warrant – Scotland

UNDER THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

IN THE SHERIFFDOM OF [insert Sheriffdom]

THE PETITION OF THE PROCURATOR FISCAL

Date:

From information received by the Petitioner, it appears that between [insert Date] and [insert Date], both dates inclusive, at [insert Subject's Address] and elsewhere meantime to the Petitioner unknown, [insert Subject's Name], born [insert Subject's Date Of Birth] fraudulently claimed and received means tested benefit. There are reasonable grounds for believing that evidence material to the investigation of said fraud are in the dwelling house at [insert Subject's Address] occupied by the said [insert Subject's Name].

The Petitioner therefore craves the Court to grant Warrant to [insert Name of Appropriate Police Officer] of [insert Police Force Name] or other officers of [insert Name of Police Force] or Officers of Law with such assistance as they deem necessary to enter [insert Subject's Address] and any pertinents thereto and if necessary to use force for making such entry whether by breaking open doors or otherwise and to search said dwelling house and any cellar, loft, cupboard or store in a common close, bin store, any vehicles which the said [insert Subject's Name] have use of or access to, any garage or other outbuilding effecting thereto and to seize any articles, whether contained on a computer system or otherwise, relevant to [insert Details, for example, the employment of, or the operation of businesses, rental incomes, income, bank accounts, investments, property owned, identity documents, etcetera] by the said [insert Subject's Name], and [insert Property Details for example, any computer equipment, computer peripherals, computer storage media including, but not limited to, hard discs, CD Roms], and any other articles which such Officers have reason to believe are evidence material to the investigation and for that purpose to force open all shut and lock-fast places in the aforementioned premises or to do otherwise as to your Lordship shall seem meet.

ACCORDING TO JUSTICE

Procurator Fiscal Depute

At		on	
		Sheriff of	

having considered the foregoing Petition grants Warrant as craved.		
		Sheriff

## 02 Conduct of all searches

### Conduct of all searches

1. The following instructions **must** be adhered to regarding the conduct of investigators and Digital Forensic Officers (DFOs) during a search and seizure operation:

- Investigators/DFOs to act in an advisory capacity only, to identify and examine property subject to potential seizure by the police; ensure the police make safe any property requiring examination, for example, check for sharps.
2. Note: Documents can be examined to determine if they are to be seized once removed from a 'container' by the police. An Investigator/DFO must not search through, for example, a box/bag containing documents.
- Investigators/DFOs must wear appropriate protective clothing throughout the operation where appropriate
  - Investigators/DFOs must not enter premises until premises are secured by the police
  - during the course of the search the police are responsible for control of the premises and people within the premises. This includes any person who arrives at the premises or any person who wishes to leave the premises
  - premises may be searched only to the extent necessary to achieve the object of the search, having regard to the size and nature of whatever is sought
  - Investigators/DFOs must not request the police to search for or seize material that is legally privileged, excluded material or special procedure material, see [Appendix 1](#)
  - for the purpose of Part 2 of the Criminal Justice and Police Act 2001, material should only be removed from premises by the police for examination elsewhere when the conditions pursuant to Part 2 of the Act are satisfied.
3. For more guidance on seize and sift powers see the Powers of Seizure under Part 2 of the [Criminal Justice and Police Act 2001](#).
4. For England and Wales (E&W), it can also be found under paragraphs 7.7 – 7.17 of Code B of Police And Criminal Evidence (PACE) Act.
5. The terms of the warrant and seizure of material is at the sole discretion of the police.

### Making records

6. When involved in an advisory capacity during search and seizure, Investigators/DFOs must record the following details in their official notebook (N1):

- date and time of entry
- address of premises being searched
- detail of officers present
- details of other persons present
- time search started and finished
- persons present when money/drugs/evidence is found

- your own movements around the premises and if you leave and subsequently return to the premises
- damage caused/complaints made
- time of finally leaving the premises.

7. In England and Wales when entering premises with a police officer, the police officer should seek to obtain consent from the premises' occupier for the investigator/DFO to enter.

8. If consent is obtained, it is recommended that investigators/DFOs note their official notebook to the effect that consent was given to the named police officer, stating by whom and at what time, see [Entries in Official Notebook](#).

9. Once the investigator/DFO has returned to their office, they must record on FRAIMS whether the search was successful or unsuccessful, see FRAIMS guidance:

- [Search and Seizure - Successful Search](#)
- [Search and Seizure - Unsuccessful Search](#).

## 03 Procedures for England and Wales

### Searching of premises by police officers and the seizure of property found by police officers on persons or premises

1. Code B of Police And Criminal Evidence (PACE) Act relates to the searching of premises and the seizure of property found on persons or premises.

2. It applies to the following searches of premises:

- under a search warrant authorised under Section 8 of PACE. The application for these warrants is in accordance with Section 15 of PACE and investigators should be authorised on the warrant under Section 16 of PACE. This type of warrant will be hereafter referred to as a Section 8 warrant
- dealt with under Sections 17, 18 and 32 of PACE
- undertaken for the purposes of an investigation into an alleged offence, with the occupiers' consent. Refer to Code B 'Search with Consent'.

3. The obtaining and execution of warrants is carried out by police officers. However, it is essential that investigators understand the requirements imposed by PACE governing the conduct of searches and the seizure of property.

4. The need to obtain warrants will arise in investigations where the police have been requested to assist in the investigation and there are grounds to believe that premises contain evidence appropriate to the offence.

### Section 8 search warrants

5. Investigators must only participate in a search and seizure under section 8 of PACE if authorised to do so under the terms of the warrant, and in line with Counter Fraud and Compliance Directorate (CFCD) policy.

6. Investigators **cannot** apply for warrants. All applications for warrants must be made by the police.

7. Section 8 of PACE, as amended by sections 113 and 114 of the Serious Organised Crime and Police Act (SOCPA) 2005, changes terminology from arrestable offence to indictable offence and enables applications for the issue of warrants to be made where an indictable offence has taken place.

8. A warrant will be issued with a lifetime of three months, and can be:

- a specific premises warrant, which allows entry to more than one set of premises as specifically identified on the warrant
- an all premises warrant, which allows entry to all premises 'occupied or controlled' by an individual and this will enable the police to search premises not specified in the original

application where further evidence of such premises comes to light during the course of the original search.

9. To obtain a warrant under Section 8 there must be reasonable grounds for believing that an indictable offence has been committed. An offence is indictable if it could be heard before the Crown Court, for example, a triable either way offence heard in the Crown Court, or an indictable only offence.

10. Note: The role of the investigator is strictly in an advisory capacity only. This is CFCD policy and must be adhered to at all times.

## **Warrant types**

11. One of the main changes brought about by the SOCPA 2005 relates to the different types of warrants that can be applied for under Section 8 of PACE. Applications can be made for a 'Specific Premises' warrant or an 'All Premises' warrant, and multiple searches can be requested on both types of warrant.

12. It is expected that CFCD will ask police to request 'Specific Premises' warrants in the majority of cases and will only use 'All Premises' and request multiple searches in exceptional circumstances.

13. It is the responsibility of the authorising officer to ensure that sufficient evidence is available to justify the application for a warrant.

## **Specific Premises warrant**

14. A 'Specific Premises' warrant requires the applicant to specify all of the sets of premises that are to be entered for the purposes of search and seizure. This process enables a search and seizure exercise to be conducted at several addresses, the addresses specified in the warrant.

15. This avoids the necessity of making fresh applications to the courts for additional warrants to search other addresses, as was the case prior to the introduction of SOCPA 2005. For example;

"we have identified that the person owns or controls three properties that he visits regularly, and we have no reason to suspect that he has access to any further properties, therefore we apply for a 'Specific Premises' warrant."

## **All Premises warrant**

16. An 'All Premises' warrant requires the applicant to specify the name of the person who occupies or controls the premises to be searched as well as those premises that can be identified for the purposes of the search and seizure.

17. The application needs to state, why it is necessary to search more premises than can be specified and why it is not practicable to specify all the premises at the time of the application. For example;

"the person is a landlord and has a number of properties known to us, however we have reason to suspect he may own, or control properties that we are unaware of at present, therefore an application is made for an 'All Premises' warrant."

18. An 'All Premises' warrant enables premises that are not specified in the warrant to be entered for the purposes of search and seizure as long as those premises are occupied or controlled by the person who is named on the warrant.

19. It should be noted that premises, which are not specified in the warrant, may not be entered or searched unless written authority has been obtained from a police officer of at least the rank of Inspector.

## **Multiple searches**



20. A further change brought about by the SOCPA 2005 concerns searches of premises on more than one occasion. This applies to both 'Specific Premises' and 'All Premises' warrants.

21. A court can grant multiple searches of premises on a single warrant if satisfied it is necessary in order to achieve the purpose for which the warrant is issued.

22. It should be noted that premises may not be entered or searched for a second or any subsequent time under a warrant, which authorises multiple entries, unless written authority has been obtained from a police officer of at least the rank of Inspector.

23. In the majority of cases, a single search 'Specific Premises' warrant will be adequate for search and seizure purposes. Applications for multiple search 'Specific Premises' warrants or multiple search 'All Premises' warrants will have to be supported with good reasons in order to satisfy the court that the grant of these warrants is necessary.

24. It is the responsibility of the authorising officers to satisfy themselves that there are reasonable grounds for requesting the police apply for a multiple search warrant.

25. If an application is sought allowing for multiple entries to a single set of premises or to more than one single set of premises, the number of entries authorised may be unlimited or limited to a maximum.

26. It will be for the police officer to satisfy the court that the application is proportional to the ongoing investigation.

27. As part of the debrief following a search, an assessment of whether a further search is required should be discussed with the police. If required the police will take forward the application for authorisation of a subsequent search.

28. If following a search information is received that suggests material is back on the premises, the lead investigator should approach the authorising officer who would decide whether a further search is justifiable.

## **Section 17 PACE - Entering premises without a search warrant for the purpose of arrest**

29. Powers of search and entry without warrant before arrest are covered in Section 17 of PACE, which states:

'Where a constable, in uniform or otherwise, has reasonable grounds for believing that the person he is seeking is on the premises he may enter and search for the purpose of:

- executing:
  - a warrant of arrest issued in connection with or arising out of criminal proceedings
  - a warrant of commitment issued under section 76 of the Magistrates' Courts Act 1980
  - Section 1 of the Public Order Act 1936 (prohibition of uniforms in connection with political objects)
  - Section 4 of the Public Order Act 1986 (fear or provocation of violence)
  - Sections 6, 7, 8 or 10 of the Criminal Law Act 1977 (offences relating to entering and remaining on property)
  - Section 4 (driving when under influence of drink or drugs) or Section 163 of the Road Traffic Act 1988 (failure to stop when required to do so by a constable in uniform)
  - Section 27 of the Transport and Works Act 1992 (which relates to offences involving drink or drugs)
  - Section 76 of the Criminal Justice and Public Order Act 1994 (failure to comply with interim possession order)
- arresting, in pursuance of Section 31(2A) of the Children and Young Persons Act 1969, any child or young person who has been remanded or committed to local authority accommodation under section 23(1) of that Act
- arresting a person for an offence to which Section 61 of the Animal Health Act 1981 applies
- arresting for an indictable offence



- arresting for an offence under:
- recapturing person unlawfully at large whilst liable to be detained
- recapturing [any person whatever] who is unlawfully at large and whom he is pursuing
- saving life or limb or preventing serious damage to property.”

30. When entering premises, including dwellings, to search for a person, except for the purpose of saving life or preventing damage to property, the constable must have reasonable grounds for believing that the person he is seeking is on the premises, section 17(2)(a) of PACE.

31. Where the occupier of the premises is present and can be spoken to, forcible entry will not be justified unless the constable explains by what right and for what purpose he seeks to enter the premises.

32. In Department For Work and Pensions (DWP) cases, Section 17 of PACE is used by the police so that entry to premises can be effected for the purpose of securing an arrest. Under Section 17, an investigator will only be required to be on the premises at this stage for the purpose of identifying the arrested person.

33. However, an investigator cannot enter premises with the police unless they have obtained the consent of the occupier beforehand.

34. It is for the police officer to obtain the consent, not the investigator. If consent is obtained, the investigator can enter in an advisory capacity only.

35. An investigator accompanying a police officer must not engage in search and seizure activity. Under no circumstances should an investigator attempt to use force to enter the premises.

36. If an objection is made to the presence of an investigator, they must not on any account enter the premises. If on entering the premises the occupier later changes his mind and asks the investigator to leave, the investigator must do so immediately.

37. In all other cases the investigator must look to either Sections 8, 18 and 32 of PACE which relate to exercise the powers of search and seizure.

## **Section 32 PACE - Search upon arrest**

38. A constable who arrests a person other than at a police station may search that person:

- if he has reason to believe that the person may present a danger to themselves or others
- for anything the person might use to assist them to escape from lawful custody
- if he has reason to believe the person possesses anything which might be evidence relating to an offence or
- if the offence for which the person has been arrested is an indictable offence.

39. Where the search takes place in public, the constable may only require the arrested person to remove an outer coat, jacket or gloves, but he is authorised to search a person's mouth.

40. A constable may enter and search premises where the person was at the time of or immediately before the arrest. The power extends to the search of vehicles.

41. This power is to search for material of evidential value in relation to the offence for which the person was arrested, and the constable must have reasonable grounds for believing that there is material of evidential value on the premises, which relates to the offence.

42. An example of the use of this power is if a person is arrested and is found to be in possession of a stolen DWP cheque. This provision would enable the police to search that person's car if he was in the vehicle immediately prior to his arrest.

43. This provision is only exercised by the police in relation to the conditions that have been prescribed above. The only reason an investigator would need to be at the premises of the offender, or at the point of arrest following the search of the offender in person, would be to identify evidence which might indicate that benefit fraud offences may have been committed.

44. An investigator cannot enter premises with the police under Section 32 unless the police have obtained the consent of the occupier beforehand.

45. It is for the police officer to obtain the consent, not the investigator. If consent is obtained, the investigator can enter in an advisory capacity only. Under no circumstances should an investigator attempt to use force to enter the premises.

46. If objection is made to the presence of an investigator they must not on any account enter the premises. If on entering the premises the occupier later changes his mind and asks the investigator to leave, the investigator must do so immediately.

## **Section 18 PACE - Entering premises without a warrant to search after arrest**

47. Section 18 of PACE provides the police with power to enter and search premises occupied or controlled by a person who is under arrest for an indictable offence, if he has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege that relates:

- to that offence
- to some other indictable offence which is connected with or similar to that offence.

48. The premises must be occupied or controlled by the person under arrest if the search is to be lawful. As with the powers of entry to arrest under Section 17 of PACE above, a constable must first request entry where this is practicable before resorting to the use of forcible entry to the premises.

49. Section 18 of PACE is only used by the police to effect an entry to search premises or vehicles after the arrest, and without a warrant, of a person who is suspected of having committed an indictable offence.

50. The only reason an investigator would be on the premises would be to identify, and not search or seize, material found on the premises, which relate to the commission of benefit fraud offences.

51. An investigator cannot enter premises with the police under Section 18 unless the police have obtained the consent of the occupier for the investigator to enter the premises beforehand.

52. This consent can only be obtained by the police officer; the investigator would enter in an advisory capacity only. An investigator accompanying a police officer under Section 18 of PACE does not have the power to search and seize.

53. If objection is made to the presence of an investigator, they must not on any account enter the premises to be searched. If on entering the premises the occupier later changes his mind and asks the investigator to leave, the investigator must do so immediately.

54. Note: The role of the investigator is strictly in an advisory capacity only. This is CFCD policy and must be adhered to at all times.

## **Section 26 Theft Act 1968**

55. Under Section 26 of the Theft Act 1968, a Magistrates' Court may issue a warrant to a constable for the search and seizure of stolen goods.

56. The warrant may authorise persons to accompany the constable who is executing it. A person so authorised has the same powers as the constable whom he accompanies in respect of the execution of the warrant and for the seizure of anything to which the warrant relates but these powers must only be used under the supervision of the police constable, section 16 of PACE as amended. Section 26 of the Theft Act 1968 provides that warrants can be applied for and executed in exactly the same manner as Section 8 of PACE warrants.

57. The difference is that a Section 8 PACE warrant is requested when there are reasonable grounds for suspecting that a person has committed an indictable offence, whereas a

Section 26, Theft Act 1968 warrant is requested when there are grounds for suspecting that a person is in possession of stolen goods.

58. There is a degree of overlap because someone suspected of committing an indictable offence could also be suspected of being in possession of stolen goods, for example stolen instruments of payment.

59. In this case an application for a warrant could be sought under either of these provisions, however, a Section 8 PACE warrant would be preferable as the police / CFCD would not have to satisfy the court that the person to whom the warrant relates is in possession of stolen goods. In the vast majority of CFCD cases, police assistance should be sought in applications for warrants under Section 8 of PACE.

60. Note: The role of the investigator is strictly in an advisory capacity only. This is CFCD policy and must be adhered to at all times.

## **04 Procedures for Scotland**

### **Searching of premises by police officers and the seizure of property found by police officers on persons or premises**

1. The Procurator Fiscal (PF) is entitled under various statutes to apply for and obtain warrants and also has the power under common law to apply for a warrant.
2. The information given to the Sheriff in common law applications will vary, depending on the particular Sheriff or Sheriffdom, and is sometimes given on oath. However, all applications to the Sheriff for search warrants are first channelled through the PF.
3. It is essential that investigators understand the requirements imposed by the laws of Scotland, including the Criminal Procedure (Scotland) Act 1995 and common law, governing the conduct of searches and the seizure of property. The police must be supplied with a subject sheet and, if available, a draft of the warrant for the particular Sheriffdom.
4. If investigators are to accompany the police during the search, they should be specified in the body of the warrant. Those executing the warrant should be clear as to any limitations the terms of the warrant place on who may accompany the police during its execution. For example, the terms of the warrant may specify named individual officers or a specific number of officers from Jobcentre Plus.
5. The terms of the warrant must be strictly adhered to as any failure to do so could result in the evidence obtained under that warrant being declared inadmissible.

### **Search warrants**

6. In line with Counter Fraud and Compliance Directorate (CFCD) policy, an investigator can only participate in a search and seizure if authorised to do so under the terms of the warrant.
7. Investigators are not able to apply for warrants, therefore all applications will be made to the Sheriff by the PF.
8. As it is usually the PF who applies for a warrant, on the basis of information provided by the police, general advice is not circulated.
9. However, the Sheriff must be satisfied that there are reasonable grounds to suspect that a crime has been committed at a time and place and evidence of that crime may be found in a certain place.
10. The Sheriff will also require to be satisfied that the warrant is both necessary and proportionate and that no alternative way of achieving the same objective exists.

## **05 Seizure of property**

## Property seized

1. The police must retain any items seized where they have executed a search.
2. The Department for Work and Pensions (DWP) do not have the power to retain items seized by the police. The power of retention remains with the police, although the property can be signed over to an investigator at a police station, this does not include cash seized during a search.
3. Property can be anything:
  - covered by a warrant
  - the investigator has reasonable grounds for believing is evidence of an offence, or has been obtained in consequence of the commission of an offence, only if seizure is necessary to prevent the items being concealed, lost, disposed of, altered, damaged, destroyed, or tampered with or
  - covered by the powers in the Criminal Justice and Police Act 2001, Part 2 allowing an investigator to seize property from persons or premises and retain it for sifting or examination elsewhere.
4. During the search, the events and activities including any property relevant to the investigation that is seized and removed from the premises will be recorded in the premises search record book/production schedule, maintained by the police.
5. Any property that is seized must be recorded as an exhibit/production in its own right. This can include multiple items if they are of the same description, for example, a quantity of wage slips, invoices, bank statements etcetera.
6. Any such exhibit can be broken down at a later stage if required and each item subsequently relabelled and given an individual exhibit number by the investigator.
7. Exhibit/production labels and subsequently the premises search record book must show exactly where the property was located on the premises, when it was seized and who seized it.
8. Property may be taken to a police station and recorded in the appropriate record book. Procedures will vary from force to force. Once recorded, the police will decide what is appropriate to be handed to the investigator. The investigator must sign for any property, which is to be taken away from the police station.
9. In the event of the Financial Investigation Unit (FIU) being unable to attend at the arrest, it will be for the investigator, along with police officers, to consider the evidential value of any property to be seized to support the criminal investigation or assist any potential confiscation proceedings.
10. If cash has been seized, the FIU must be made aware so that they can contact the police Financial Investigator to discuss.
11. For items that are considered to have been obtained as a result of the commission of an offence or assist any potential confiscation proceedings, the investigator should consult with their team manager, FIU and/or prosecution authority, if necessary before seizure.
12. The outcome of any consultation with the Team Leader (TL) / Higher Investigations Leader (HIL) and/or prosecution authority must be recorded on FRAIMS, see FRAIMS guidance: [Obtaining case management advice](#) and [Obtaining Legal Advice](#).
13. The offence of money laundering should be considered by the police and brought into question if applicable.
14. In Scotland money laundering will be assessed and dealt with by the FIU and if 'designated' by the Crown will require close liaison between the two.

15. If there is evidence of a criminal lifestyle it is strongly recommended that it is visually recorded on video/DVD. This will additionally support the FIU when considering any action under the Proceeds of Crime Act (POCA) 2002.

16. It will not be necessary for the police to seize all high value material. Before the police seize such items, it is recommended that the investigator contacts the FIU. The outcome of any consultation must be recorded on FRAIMS.

17. Prior to the police seizing material, consideration into the storage and intrinsic value of the property should be applied. Video recording of property and the recovery of any supporting purchase receipts will assist the FIU when considering any applications for restraint orders and confiscation proceedings.

18. See [Appendix 1 - FIU Aide-memoire](#).

19. In Scotland, the police do not seize high value material unless it forms part of the evidence for the original criminal charges or is required as a production. Where material is required as a production, seizure must be agreed between the FIU and the police either prior to or during the search.

20. The seizure of cash must be carried out by the police under their own policy and procedures.

## **Seizure of digital material**

21. Digital material falls into two areas;

- material produced within an electronic environment; for example, e-mail, Microsoft (MS) Office file, system files, digital photographs, etcetera
- material which has been digitised from an analogue form: for example, scanned copy of a document, scanned photograph, faxed document.

22. Digital material is generally held on one of the following media formats:

- optical media: for example, Compact Disc (CD), Digital Versatile Disc (DVD), Blu-ray - low volume storage
- solid state media, for example, removable memory cards, solid state music players, etcetera - low volume storage
- magnetic media: for example, Integrated Drive Electronics (IDE)/Serial Advanced Technology Attachment (SATA)/Fibre Attached Technology Adapted (FATA)/Fibre-channel disk drives, magnetic back up tapes - high volume storage.

23. Prior consideration must be given to what digital material may be found and whether it is possible for the police to view and copy on the premises.

24. Consideration should also be given to what material should be seized by the police.

## **Forensic examination of digital material**

25. For DWP, forensic services are provided by CCL Forensics. To ensure seized digital material remains evidentially sound, it must be handled in accordance with forensic examination guidance.

26. Investigators should be familiar with this guidance, specifically in relation to mobile telephones and computers, prior to participating in search and seizure activity where digital material may be removed by the police, for more information see [Forensic Examination](#).

## **Premises search record books/production schedule**

27. Following search and seizure, the police officer will usually process the property at the police station and where appropriate sign over the material to the DWP.

28. Where applicable, if the occupier of the premises states that he does not own the property, and does not want it, then the occupier should sign a disclaimer [SS1/ \(link is external\)](#)SS1W) stating that he has no proprietary interest in the seized property and accordingly that he is prepared to disclaim any proprietary interest in the property.

29. Care must be taken in case a third party would wish to claim an interest in the particular property at a later date.

30. In Scotland, at the conclusion of any criminal proceedings, any property seized as a production in the case cannot be disposed of, or returned to its owner without the written authority of the Procurator Fiscal.

## **The powers of seizure under Part 2 of the Criminal Justice and Police Act 2001**

31. The central purpose of this legislation is to enable a police officer or other officers named on the warrant to remove material from premises for examination elsewhere. The powers are sometimes referred to as the 'seize and sift' powers.

32. These powers are usually invoked when there is insufficient time to conduct an effective examination of the material on the premises or there is a need to use technical equipment, which can only be made available elsewhere, for example, the examination of a computer hard disk.

33. Investigators must only request removal of material that is necessary.

34. Section 53 of the Criminal Justice and Police Act 2001 requires that an initial examination of seized property is carried out as soon as reasonably practicable.

35. The general rule is that the police can retain whatever they could have seized had the examination taken place on the premises. Other property must be returned once the examination has been completed.

36. One exception to this rule is that inextricably linked material that is not reasonably practicable to separate from material seized without prejudicing the use of the seizable material can be retained for limited purposes.

## **Appendix 1 - FIU Aide-memoire**

1. In accordance with guidance, video evidence should be taken of the search of premises, out buildings and vehicles, to provide a permanent record for any future confiscation hearing.

2. Evidence of excessive expenditure, given the likely legitimate income of the suspect would be of assistance to any potential financial investigations.

3. Listed below are some of the items to look for:

- evidence of money transfers, for example, via Western Union
- cheque books/paying in books
- credit and debit cards, such as, Switch, Delta, Visa/Master cards
- building society passbooks
- any evidence of large amounts of cash being expended such as, receipts
- credit card / store card / debit card receipts
- any evidence of excessive expenditure given the likely legitimate income of the suspect.
- correspondence with financial institutions such as banks, building societies, assurance/insurance companies, such as: details of life, contents, building or vehicle insurance cover
- investment companies / share shops, pension funds, endowment policies
- safe deposit boxes, safe custody facilities at banks or elsewhere
- stocks and shares, including details of stockbrokers or registrars for shares issues
- any hire purchase agreements, for vehicles, property or furniture purchased, United Kingdom (UK) or abroad, to show criminal lifestyle
- utility bills may show direct debit, such as gas, electric, telephones, etcetera
- Premium Bonds.
- correspondence with HM Revenue & Customs



- is there a Sky TV system, almost always paid by direct debit? Record the Sky card number.
  - similarly with mobile phones, examine the SIM card and record the number. There is a code (\*6#06#), which can be entered into the mobile phone, which will display the IMEI (Electronic serial number) of the phone.
  - anything relating to property, UK or abroad. Paperwork may be found at the address, which will assist in the valuation. If the property is abroad, who deals with the service, how is it paid, is it rented, are there any other assets.
4. The police will search the prisoner, either at the address or police station, a check of the charge sheet should be made to, identify any financial documentation found on the prisoner, such as, debit / credit cards.
  5. Any vehicle at the search should be noted, make, model, number of doors and current mileage. In addition, any paperwork relating to vehicle, registration document, servicing, MOT, identifying mileage, to show expenditure / criminal lifestyle.
  6. Computers, follow LGC instructions for disconnection.
  7. This list is not exhaustive

## 06 Seizure of money

### Introduction

1. Although Department for Work and Pensions (DWP) Financial Investigation Unit (FIU) Financial Investigators have been given the powers of cash seizure, under Proceeds Of Crime Act (PoCA) 2002, Counter Fraud and Compliance Directorate (CFCD) policy is that they will not exercise them.
2. A police officer may seize any cash if he has reasonable grounds for suspecting that it is recoverable property or is intended by any person for use in unlawful conduct. Cash seized must be held by the police.
3. During a joint operation with the police where cash is seized and offences against DWP are established, the financial investigation will be dealt with by the Financial Investigation Unit (FIU) of DWP. They will lead and represent any third party interest.
4. If however this joint operation identifies more serious major elements of crime, for example, drugs offences, etcetera, agreement on a different approach will be sought and agreed by both parties.
5. If the financial investigation is conducted by the police, the amount of loss to the department should be conveyed to the police so they are aware of the amount of compensation appropriate to DWP should a compensation order be made by the court.
6. Cash will only be retained by the police in its original form where it is required as an exhibit in its own right for example when:
  - the numbers are sequential
  - proof is required of when issued
  - the method by which it was folded is relevant
  - it is required to undergo forensic examination.
 This list is not exhaustive.

### Cash Seizure

7. The Police will make any cash seizures during any arrest/seizure operation. This action **must not** be carried out by DWP investigators.
8. In joint cash seizure with DWP, the [PA2 \(link is external\)](#) notice must be handed to the Senior Police Officer before any briefing so they are aware of the DWP policies relating to cash seizure and financial investigations.



9. Record the contact with the police and issue of the PA2 as an Outbound Communication activity on FRAIMS, see [FRAIMS Guidance – Completing an activity](#)

10. If cash is discovered on the premises where there is a DWP interest, the FIU must be informed on the day in every case.

11. A police financial investigator will discuss what should happen with any cash seized, such as, restraint, detention for confiscation, forfeiture, etcetera. with the FIU contact.

12. Contact with the FIU must be recorded on FRAIMS, see [FRAIMS Guidance – Contact with the Financial Investigation Unit, Police and other organisations](#).

13. DWP FIU has no facilities to receive cash at any time and therefore in cases where cash seizure has taken place and DWP are lead prosecutors the options available will be:

- DWP will support the police in producing a statement for the court application for the detention of cash seized by police pending the DWP prosecution outcome and confiscation proceedings
- if cash is seized under The Police and Criminal Evidence Act 1984 (PACE) as evidence and there is a DWP interest, DWP FIU will take action to obtain a restraint in order that the funds are held by the police pending confiscation action
- once cash has been seized, and detention agreed at the Magistrates Court, DWP will inform police when the defendant/s is/have been charged with offences. If required, DWP will assist police in asking the court to agree and postpone forfeiture proceedings pending the confiscation outcome with a view to utilising the seized funds to satisfy or partially satisfy any confiscation order obtained by DWP.

14. Cash seized under PoCA and not used as evidence in its own right, must be in excess of £1,000 for the seizure and detention of cash provisions of PoCA to be implemented.

15. This includes notes and coins of any currency, postal orders, and cheques of any kind including Travellers Cheques, bankers' drafts, bearer bonds and bearer shares.

16. A police officer who has seized cash can retain it initially for a period of 48 hours. To retain it beyond this period an application for an extension must be made by the police officer at the Magistrates Court.

17. Cash detained for more than 48 hours should be paid into an interest-bearing account as soon as is reasonably practical. The interest accruing on it should be added to it on its forfeiture or release.

18. Cash seizures under £1,000 not subject to PoCA, and which are not required as evidence, must be returned to the owner.

19. It is recommended that all cash seizures should be visually recorded by video/DVD. Handling, and counting, of any money discovered on the premises is the responsibility of the police.

20. If counted on premises, best practice is that a visual recording should be taken by the investigator showing the counting of the money and subsequent bagging and sealing. Where possible, this should be done preferably in the presence of the occupier.

21. The cash can then be entered as an exhibit in the premises search record book. This process is subject to local police procedure.

22. In Scotland, cash may be seized as evidential productions by the police and retained as such by them. The FIU will liaise with the police regarding productions remaining as possible assets or being reclassified as a cash seizure in civil proceedings.

23. Investigators **must not** handle or count cash discovered during the search and seizure of premises and property.

24. For further information see [Search and Seizure – Conduct of all searches](#).

## 07 Retention and Disposal of property

## Retention of property

1. Anything seized during the course of a search may be retained by the police only for as long as necessary. It may be retained, among other purposes:

- for use as evidence at a trial for an offence
- to facilitate the use in any investigation or proceedings of anything to which it is inextricably linked, for example, a computer including its hard drive
- for forensic examination or other investigation in connection with an offence
- in order to establish the lawful owner when there are reasonable grounds for believing it has been stolen or obtained by the commission of an offence.

## Rights of owners

2. In England and Wales (E&W), if property is retained, the person who had custody or control of it immediately prior to its seizure must on request be provided with a list or description of the property.

3. The person or their representative must be allowed supervised access to the property to examine it, have it photographed or copied, or be provided with a photograph or copy, within a reasonable time at their own expense.

4. The exception to this is if the investigator in charge of an investigation has reasonable grounds for believing that this would prejudice the investigation or any criminal proceedings. In this case a record of the grounds must be made and recorded on FRAIMS, see [FRAIMS guidance – Search and Seizure – Successful search](#).

## Request by owner for return of property

5. Any person claiming ownership of property seized by the police may apply to a Magistrates' Court under the Police (Property) Act 1897 for its possession.

6. In the event of a court order being issued to return property to the owner then this must be done immediately. It will however, be most unusual for a Court to instruct the return of evidence/unused material during the course of criminal proceedings.

7. If contacted directly by the owner or their legal representative and no Court Order has been made, and the investigator believes the item is of no evidential value, it can be returned to the owner subject to consultation with the police and prosecution authority.

8. The outcome of any consultation with the police and prosecution authority must be recorded on FRAIMS, see [FRAIMS guidance – Obtaining Legal Advice](#).

9. Document the Property Movement/Disposal Record ([SS3 \(link is external\)](#)) to show property returned to the claimant.

10. A Property Receipt ([SS2 \(link is external\)](#)/[SS2W \(link is external\)](#)) must be completed and a copy given to the owner in all cases.

11. In Scotland, if a report regarding a crime has been submitted to the Procurator Fiscal (PF), any property seized as a production in that case cannot be returned to the owner without the written consent of the PF.

12. Requirements to secure and return property apply equally to all copies, images or other material created because of seizure of the original property.

## Property storage - Excluding money

13. Once the property has been signed over to the Department for Work and Pensions (DWP), it must be listed on the Property Movement/Disposal Record ([SS3 \(link is external\)](#)).

14. This is an electronic form, unique to each investigation and should be security password protected. A copy of the form must be attached to the case on FRAIMS, see [FRAIMS guidance – Attaching photocopies and documents to Activities](#).

15. Property will be kept securely and will be maintained by the Officer In Charge (OIC) who will have responsibility for monitoring any movement of property, see [Role of the Officer In Charge of the investigation and deputy](#).

16. This may be in a locked cupboard or protected storage area within offices occupied and controlled by DWP. Where possible, access will be restricted to the OIC and a nominated deputy.

17. All property seized must be correctly identified and stored to enable the integrity of that property/exhibit to remain.

18. Any subsequent movement of any item to enable further enquiries must be recorded to provide evidence of continuity for any future court proceedings.

19. See [Appendix 1 – Aide-memoire for Property Movement/Disposal Record](#).

20. Where no longer required, property signed over to DWP should be returned to the police station at the earliest opportunity.

21. Where local Counter Fraud and Compliance Directorate (CFCD) procedures are in place for monitoring the storage/movement of property recovered during search and seizure, records must fully document the receipt, removal and return of any property signed over to DWP.

### **Role of the OIC of the investigation and deputy**

22. The OIC/lead investigator is responsible for the accurate completion and maintenance of the Property Movement/Disposal Record, the safe storage and retrieval of property, as well as ensuring legal procedures are complied with in respect of items required as exhibits. A deputy officer, normally a nominated officer, will act in the absence of the OIC.

### **Role of the supervising officer**

23. The supervising officer is responsible for ensuring all procedures are adhered to and the forms are completed on time and are accurate.

24. Checks of the [SS2 \(link is external\)](#)/[SS2W \(link is external\)](#) and [SS3 \(link is external\)](#) include:

- Property Movement/Disposal Record (SS3); 1% of all retained property to be checked on a quarterly basis, taken from a random sample. This will include both property retained and property returned to the unit following its movement elsewhere, for example, for forensic analysis.
- Property Movement/Disposal Record (SS3); 1% of all retained property checked on a quarterly basis, taken from a random sample, of property returned to the owner. This will be in conjunction with the Property Receipt (SS2/SS2W) signifying correct and full disposal of the property, ensuring that signatures for the return of the property have been correctly obtained and the record noted accordingly.
- Property Receipt (SS2/SS2W); 1% of all retained property checked as returned to the owner on a quarterly basis, taken from a random sample and confirmed against the Property Movement/Disposal Record.

### **Property belonging to financial institutions/Other Government Departments**

25. Material belonging to financial institutions or Other Government Departments (ODG), such as:

- bank cards
- credit cards
- savings account books
- cheque books
- passports
- driving licences.

seized during the course of a search are **not** the property of the Department for Work and Pensions (DWP).

26. In this instance, the investigator should notify the issuing authority of the recovery of their property and that it is held in support of criminal prosecution.

27. It is recommended that initial contact be made by the investigator through the appropriate fraud department of the institution concerned.

28. This material should not be defaced in any way and may be the subject of forensic examination. The Financial Investigation Unit (FIU) should be notified of the recovery of all such material.

29. All contact with the appropriate institution and/or the FIU must be recorded on FRAIMS.

## **Criminal Procedures and Investigations Act 1996 disclosure**

30. Any items retained in connection with the search and seizure operation, which do not form part of the prosecution evidence, will be required to be disclosed as part of a prosecution case. More detailed information is provided in [Treatment of Information](#).

### **Period of retention of items**

31. Criminal Procedures and Investigation Act (CPIA) 1996 requires that material of any kind, including information and objects which are obtained in the course of a criminal investigation and which may be relevant to the investigation, must be retained.

32. Seized material shall be retained until the suspect is acquitted or convicted or the prosecutor decides not to proceed with the case.

33. The guidance below relates to the minimum retention periods set out in the Code Of Practice (COP) for CPIA 1996. Investigating officers may also need to consider if material can be disposed of in accordance with the [Information Retained - General Guidance \(link is external\)](#).

34. On conviction, the material must be retained at least until:

- the convicted person is released from custody or discharged from hospital, in cases where the court impose a custodial sentence or a hospital order
- six months from the date of conviction, in all other cases.

35. Therefore 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 for a minimum of six months from the date of conviction.

36. If an appeal against conviction is in progress when the release occurs, or at the end of the period of six months, all material that may be relevant must be retained until the appeal is determined.

37. Similarly, if the Criminal Cases Review Commission/Scottish Criminal Cases Review Commission is considering an application at that point in time, 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 until the Court determines the appeal resulting from the reference by the Commission.

38. It can either be returned to the convicted person at the end of the retention period, unless otherwise directed by the Court, for example, by confiscation or destruction.

39. Material should not be returned to the convicted person if it could be used to commit a criminal offence; for example, do not return forged or counterfeit documents to the convicted offender.

40. Under section 22 of the [Police and Criminal Evidence Act 1984 \(PACE\) \(link is external\)](#), an image of the digital device can be made and the device itself returned. An image is a forensically sound copy of the digital material held on a device.

41. Exercise caution before returning digital devices which have not been imaged, as material which has not been deemed relevant may become relevant at a later date. Prosecutors should be consulted before the return of any such item to ensure a proper assessment of the relevance of the content of the device is conducted before its return. This may not be possible in many cases without an image having been taken and a proper digital analysis being conducted.

42. Manually assessing the content of a computer or other digital material from its directory to determine which files are relevant and must be retained for evidence/unused material must not be undertaken by an investigator/disclosure officer. A proper forensic analysis must be conducted.

## **Disposal of property**

### **Unclaimed property**

43. Initial steps should be taken to return any unclaimed property to the appropriate police station. Where the police are reluctant to retain control of any property, it will be the responsibility of the department to reunite the property with the rightful owner.

44. Alternative steps should be taken to contact the claimant's solicitor in order to make arrangements for the claimant to reclaim their property. If the solicitor declines the offer, write to the claimant inviting them to collect their property using the [SS4\(1\) \(link is external\)](#)/[SS4\(1\)W \(link is external\)](#)/[SS4\(2\) \(link is external\)](#)/[SS4\(2\)W \(link is external\)](#).

45. If the claimant refuses to collect the property, but states they are happy for the property to be disposed of, obtain claimant consent in writing on the [SS1\(b\) \(link is external\)](#)/[SS1\(b\)W \(link is external\)](#).

46. Where consent is not obtained or claimant contact is not established within the given timescale, dispose of property as outlined at Examples of seized property. Date of disposal must be a minimum of 14 days from date of issuing letter.

47. A disclaimer to property on the [SS1\(b\) / SS1\(b\)W](#) should accompany letters issued to the claimant, [SS4\(1\) \(link is external\)](#)/[SS4\(1\)W \(link is external\)](#)/[SS4\(2\) \(link is external\)](#)/[SS4\(2\)W \(link is external\)](#).

### **Storage and disposal of property**

48. If steps to return the property via the police, the claimant's solicitor or direct to the claimant have failed, property should be retained securely for one year from the date of case closure.

49. The claimant must be contacted in writing after the retention period has expired, giving them the opportunity to retrieve property prior to the date of disposal using the [SS4\(3\) \(link is external\)](#)/[SS4\(3\)W \(link is external\)](#).

50. Date of disposal must be a minimum of 14 days from date of issuing letter.

51. If there is no claimant contact, or they cannot be traced, the risk associated with disposal will be accepted by the department and the property will be disposed of appropriately.

52. For audit purposes, all attempts to return seized property must be recorded as an activity on FRAIMS, where a case is still live.

53. Alternatively, a clerical/electronic record should be kept detailing all efforts made to contact the claimant, for example, dates letters issued/visits conducted.

54. Clerical/electronic records must be retained for a minimum period of 14 months from the date of property disposal.

55. Items treated with chemicals (Ninhydrin) for the purpose of fingerprint examination must not be returned to the claimant. For methods of disposal see [Examples of seized property](#).

56. Where a custodial sentence is imposed, disposal of property must comply with CPIA 1996.

### **Recycling/donating property to charity**

57. Recycling unclaimed property or donating it to charity is **not** appropriate.

58. In relation to IT equipment, the cost to the department in cleansing data from equipment prior to disposal would be disproportionate to the benefits. Additionally, the department should not be seen to profit from disposal for example, donating to the Civil Service Benevolent Fund.

## Secure disposal of non-departmental IT equipment

59. The disposal of IT equipment sits with [Redacted] who are contracted to securely dispose of such items and any data stored.

60. There is no standardised service for disposing of non-DWP IT equipment therefore the [RTPi ad hoc process \(link is external\)](#) must be applied. This service will incur a charge to the department, see [Fraud Bulletin 30/12 \(link is external\)](#) Secure disposal of seized non-DWP IT equipment.

61. Investigators tasked with arranging disposal of non-DWP IT equipment must ensure that HPES are aware that it is not DWP equipment and that it must be disposed of rather than recycled.

62. Due to the potential costs to securely dispose of IT equipment, Investigators must exercise careful judgement as to what is to be seized during operations/investigations.

## Examples of seized property and disposal methods

63. The following table provides information about disposal of seized property, this list is not exhaustive:

Item/Property	Method of disposal
Bank cards* / statements	See <a href="#">Property belonging to financial institutions / Other government Departments</a> .
Clothing	Place in land fill bin.
Driving licence*	See - Property belonging to financial institutions / OGDs.
Keys	Remove any identifying tags and place in land fill bin, place in separate land fill bins where appropriate.
NINo / ID card*	See - Property belonging to financial institutions / OGDs.
Passport*	See - Property belonging to financial institutions / OGDs.
Photographs	Can be shredded and / or placed in confidential waste bin.



DVDs / Videos / CDs / Tapes	Place in a separate 'secure disposal' sack and contact <a href="#">Telereal Trillium Customer Service Centre (link is external)</a> .
Sharps	Place in sharps container generally located in the First Aid room and contact Telereal Trillium Customer Service Centre.
Computers, including screens, keyboards etcetera	As items are not DWP property they cannot be recycled. Contact Hewlett Packard Enterprise Services (HPES). <a href="#">A charge will be incurred for disposal (link is external)</a> .
Memory cards / Memory sticks	As items are not DWP property they cannot be recycled. Contact Hewlett Packard Enterprise Services (HPES). <a href="#">A charge will be incurred for disposal</a> .
Mobile phones	As items are not DWP property they cannot be recycled. Contact HPES. <a href="#">A charge will be incurred for disposal</a> .
Satellite navigation systems	As items are not DWP property they cannot be recycled. Contact HPES. <a href="#">A charge will be incurred for disposal</a> .
Typewriters	As items are not DWP property they cannot be recycled. Contact HPES. <a href="#">A charge will be incurred for disposal</a> .
Items treated with Ninhydrin (fingerprinting fluid)	Treat as hazardous, see <a href="#">Items treated with Ninhydrin</a> . Contact Telereal Trillium Customer Service.

\* For avoidance of doubt, any property which has been used to facilitate the commission of a criminal offence, for example counterfeit passport, NI No card, etcetera. must not be returned to the claimant.

64. In some cases, a deprivation order under sections 143 - 145 of the Powers of the Criminal Courts (Sentencing) Act 2000 may be required for the disposal of property.

65. Provisions under the Act give the courts the powers to deprive offenders of their property if that property has been used for the purposes of a crime.

66. Where appropriate, the prosecuting authority should apply for a deprivation order under that legislation when the case comes before the Court for sentencing.

## **Appendix 1 - Aide-memoire for Property movement and disposal record (SS3)**



## Top of page

1. Enter the Operation Name and Office Reference.

### In Box

Column	Entry
1	<p>Exhibit / Seal number</p> <p>A running consecutive number for each item deposited. This number must then be recorded on the Lab Ref box of the Exhibit Bag in the following format. NC/SS3/001.</p> <p>This is made up of:</p> <p>NC for Newcastle SS3 being the property form 001 equating to the consecutive deposit number. The deposit number is required to enable easy storage and retrieval Seal No: The seal number taken from the relevant exhibit bag, normally a DWP Evidence Bag.</p>
2	<p>Description of property</p> <p>A brief description of property for example, Cheques, Birth Certificates, claim forms, etcetera. To include the Court Exhibit Number if available.</p>
3	<p>Depositing officer</p> <p>Name and signature of officer depositing property.</p>
4	<p>Date and Time</p> <p>Date and time property entered into secure property store.</p>

### Out Box

2. Any item of property removed from a secure property store must be recorded in the OUT section:

Column	Entry
5	<p>Reason for removal</p> <p>Record reason for removal from secure property store:</p> <p>in the event that an exhibit is split with parts being retained and others restored, a new running consecutive number should be entered here and the box noted</p>

accordingly, for example: Part restored, Split etcetera. See SS3/'123'. Details should then be inserted in the 'In Box' and the deposit no. noted in the Lab Ref. Box of the Evidence Bag

if following examination, the exhibit remains as it was but the Evidence Bag number has changed, for example, exhibit placed into a new Evidence Bag, it will retain the same SS3 number and no entry is required in this box. However, details of the new seal should be recorded in the 'In (return to store) box'. The original bag should always be sealed within the new bag to show continuity when an item is to be removed from the property store for disposal, form SS3 should be updated to reflect this. If property is returned to the owner, the owner should sign for the property using the Disposal form.

6	<p>Removing officer</p> <p>Name and signature of removing officer.</p>
7	<p>Comments / Property Receipt number</p> <p>Additional comments / property receipt number details.</p>
8	<p>Date and Time</p> <p>Date and time property removed from secure property store.</p>

#### **Return Box**

<b>Column</b>	<b>Entry</b>
9	<p>Returning officer</p> <p>Name and signature of returning officer.</p>
10	<p>Date and Time</p> <p>Date and time property returned to property store.</p>

# Secretary of State Authorisations (s109)

## 00 Introduction

### Legislation

1. Section 10 of the Social Security Administration Act 1992 was substituted by Schedule 6 of the Child Support, Pensions and Social Security Act 2000, to clarify the purpose of the powers, and introduced new Sections 109A, 109B, 109C, and 110A.

- Section 109A empowers the Secretary of State (SoS) to authorise a person to use Section 109B(1) and (2) and 109C powers.
- Section 109B(1) and (2) allows an Authorised Officer to make a written request for information.
- Section 109C allows an Authorised Officer to visit premises to obtain information, see [Powers of entry](#).
- Section 110A empowers those Local Authorities (LAs) who retain powers to investigate, to authorise a person to use Section 109B(1) and (2) and 109C powers

### The Secretary of State's Authorisation (Section 109A)

2. An officer appointed under Section 109A is called an Authorised Officer.

3. In order to become an Authorised Officer, whether permanent or temporary, the officer must:

- successfully complete the appropriate Accredited Fraud Learning, and
  - hold a Secretary of State's Certificate of Appointment
4. For information on how Counter Fraud and Compliance Directorate (CFCD) investigators obtain identity cards which include authorisation to use Section 109A powers, see [Identity Cards](#).

### Pseudonyms

5. Pseudonyms must not be used when using the powers.

### The guide to obtaining information and information leaflet

6. The guide to obtaining information, and information leaflet, have been introduced in order to ensure that persons liable to provide information, for example, individual employers, suppliers, childcare providers, are given basic information about the Authorised Officer's powers. This helps them to understand their legal obligations and may help the Authorised Officer to obtain information from them.

7. The guide sets out clearly what actions an Authorised Officer can and cannot take when obtaining information. The guide summarises the guidance given in this Section and must be adhered to at all times when obtaining information under the Authorised Officer's powers.

8. A copy of the information leaflet must always be:

- sent when making a written request to a person who is required to provide information; usually an employer or supplier. This applies whether they are asked for a list of names or about a named individual
- sent to a person with the notification of an intended visit to obtain information

- offered to the person liable to provide information when making a visit
  - offered to anyone an Authorised Officer questions, during a visit
9. The guide to obtaining information should be provided to anyone who requests it following receipt of the information leaflet. This may be done at the time of a visit, or immediately following the visit, if sufficient copies are not held at the time of the visit.
10. Those providing information should be advised that further copies of the guide to obtaining information are available on the internet on the Social Security web site.
11. Where officers from other Government Departments or Local Authorities are authorised to act for the Department for Work and Pensions (DWP) under Section 109A, they should use the DWP guide to obtaining information.

## **01 Applying the Secretary of State's Authorisation**

1. An Authorised Officer is lawfully allowed to ask certain people and organisations for information for the following purposes:

- to establish whether benefit is or was correctly payable in any individual case
- to establish whether the provisions of the relevant Social Security legislation:
  - have been, are being or are likely to be contravened whether by particular persons or more generally
  - prevent benefit offences being committed
  - detect benefit offences
  - secure evidence of benefit offences
- to:
- by any one or more individuals
- to investigate the circumstances of:
  - accidents
  - injuries
  - diseases
- giving rise to claims for Industrial Injuries Benefit or any other relevant Social Security benefit.

2. The provisions allow Authorised Officers to ask for information, providing the request is reasonable, see [Test of Reasonableness](#).

### **Method of obtaining information**

3. Section 109B(1) and (2) allows an Authorised Officer to make written enquiries.
4. If an Authorised Officer intends to visit a person liable to provide information, for example, an employer or supplier, then they will be using Section 109C powers.
5. Before writing to any person or organisation, an Authorised Officer needs to consider if it would be more effective to visit them instead.
6. Visits may be appropriate where fraud drives, particularly joint fraud drives with the police or Other Government Departments (OGDs) are being carried out.
7. In suspected collusion cases, any information must be obtained by visit.
8. In all other cases Authorised Officers should request the information in writing as a first option and only visit if it is considered reasonable to do so, see [Obtaining Information by Visit](#).
9. Section 109B(1) and (2) sets out:
- how to obtain information by written request
  - the people an Authorised Officer can ask for information

10. Section 109B(3) contains a statutory duty to provide information. Under 109B(3) recipients are legally obliged to provide the information in the form it has been requested and within the specified timescales.

11. Personal data is exempt from the non-disclosure provisions of the Data Protection Act (DPA) 2018 where the disclosure is required by or under any enactment, such as the SSAA 1992, by any rule of law or by the order of a court, Data Protection Act 2018 paragraph 5 of Schedule 2 applies.

12. Under Section 111 of the Social Security Administration Act (SSAA) 1992, if a person intentionally delays or obstructs an Authorised Officer in the exercise of any power under this Act, refused or neglected to answer any question or to furnish any document when required to do so under SSAA 1992, he is guilty of an offence.

## **When an Authorised Officer can ask for information**

13. An Authorised Officer who has reasonable grounds to suspect that a person/organisation has or may have possession of, or access to, any information about any matter that is relevant for Section 109A/110A purposes, can require that person/organisation to provide such information.

14. Where employment details are being requested from an employer it is acceptable prior to issuing an EQ1 requesting the information for a non-Authorised Officer to contact the person liable to provide information and confirm the following details only:

- name of person suspected of working
- whether the suspected person is working or has worked for that employer
- date of birth
- National Insurance Number (NINo) held by employer
- start and end dates of employment where applicable
- where, and to whom, the EQ1/Statement of Earnings form should be addressed

15. Where details of Child Care or Tenancy Provision are required it is acceptable to contact the provider to confirm where and to whom the request for information should be addressed.

16. These requests must not be made using the appropriate request forms and must not quote Section 109B(1) and (2) powers.

17. The details of the enquiries made must be recorded on FRAIMS, see [FRAIMS guidance – Earnings enquiry initial check](#).

18. Any other information requested under Section 109B(1) and (2) powers must be made by an Authorised Officer.

## **Persons liable to provide information**

19. Section 109B(2)(a) states:

“Any person who is or has been an employer or an employee within the meaning of any provisions made by or under the Contributions and Benefits Act”.

20. This means that an Authorised Officer can write to any employer or an employee to ask for information.

21. In practice an Authorised Officer would not normally write to an employee. Usually an Authorised Officer would obtain information from employees in the course of a visit to the place of employment.

22. The Social Security (Persons Required to Provide Information) Regulations 2013 introduced Section 109B(2)(ia) powers, as inserted by Section 110 of the Welfare Reform Act (WRA) 2012, from 1 October 2013 which provides the powers for an Authorised Officer to require information regarding relevant childcare or rent payments in respect of a claim to

Universal Credit (UC). In addition, Section 122 of the WRA 2012 treats tax credits as Social Security benefits, therefore, for investigation purposes Section 109 powers apply.

23. Section 109B(2)(b) states:

“Any person who is or has been a self-employed earner within the meaning of the Contributions and Benefits Act”.

24. This means that an Authorised Officer can ask any self-employed person for information.

25. Section 109B(2)(c) states:

“Any person who is treated or has been treated as an employer, employee or self-employed earner as defined by the contributions and benefits legislation, as stated in Section 109B(2)(a) and (b)”.

26. This means that an Authorised Officer can ask for information about people who are, for example, employed by a business through a third party, on a sub-contract basis. This third party may be the employee’s own personal service company.

27. A personal service company means a company that supplies suitably qualified workers to fulfil designated contracts from organisations with specific business needs. The worker may be directly employed or self-employed. Examples include the provision of workers such as an employment agency or a service such as a taxi firm, catering service or Gangmasters.

28. Section 109B(2)(d) states:

“Any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers, by individuals not carrying on retail businesses from retail premises”.

29. This means that an Authorised Officer can ask for information from an organisation that provides goods to a person who wants to sell those goods to other people but who does not operate retail premises. An Authorised Officer must have reasonable grounds to suspect the person is committing benefit fraud.

30. This applies to catalogue companies such as Avon, Grattans, Betterware, Kleeneeze, and so on. Other companies might supply Do-It-Yourself (DIY) products, builders merchants or magazines, such as the Big Issue, to self-employed people who then sell the goods to other people.

31. This type of employment is mainly door-to-door but can include things such as Tupperware, Ann Summers or other types of goods parties which a person may hold in their own home. It can also include people who sell goods or services on the open streets.

32. People who carry on this type of work generally receive a commission, whether in cash or in goods, based on the value or number of goods that they sell.

33. If an Authorised Officer must investigate one or more benefit recipients they suspect of selling goods for commission on a regular, commercial basis, the Authorised Officer can ask the organisation that supplies the benefit recipient with goods to provide information.

34. This information can include such things as:

- the number of claimants the benefit recipient has, if known
- the length of time for which the benefit recipient has been providing claimants with goods
- the amount of commission which has been paid
- the dates on which commission has been paid
- the dates on which goods have been supplied.

This list is not exhaustive.

35. Some organisations may be able to provide additional information, for example, a list of the goods the benefit recipient supplied to individual clients, the value of those goods and

the commission paid on them. Not all suppliers are able to provide the same amount of information. The information they can supply depends on the records they hold.

36. Before investigating a person believed to be operating on a self-employed basis in this way, enquiries must be made to attempt to establish whether the person can be regarded as self-employed or whether they simply use the catalogue solely or mainly for personal use, for example, the claimant may place local adverts for 'parties' to sell goods such as supplied by Tupperware, and so on.

37. If these enquiries prove fruitless it is necessary to consider carrying out authorised surveillance to establish the facts, for example, surveillance may show:

- the claimant regularly drops off catalogues at houses in a particular area and then returns to collect the catalogues and any orders
- other catalogue holders visiting a number of houses regularly to show the contents of the catalogue, give demonstrations or collect payments due
- other suspects selling goods on the streets and a pattern of hours worked.

38. For information about the authorisation and conducting surveillance, see: [Surveillance](#).

39. The power to ask supplying organisations for information must **not** be used to ask for lists of the catalogue company's clients. Because of the number of people who use such catalogues for personal use or on a more commercial basis but who are not claiming benefit, it would mean that any request for a list of clients could not be considered reasonable.

40. In addition, such requests for information made in the course of a fraud investigation, must be proportionate under the Human Rights Act 1998. Innocent people, about whom information is obtained, could consider it a breach of Article 8 of the European Convention on Human Rights, right to respect of private and family life, embodied in the Human Rights Act 1998.

41. Enquiries therefore must be restricted to individual cases although if an Authorised Officer has grounds to suspect more than one person at a time, then enquiries can be made about all the suspects at the same time.

42. Section 109B(2)(e) states:

"Any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his or hers"

43. This means that information can be obtained from a person or organisation that uses self-employed people to sell their goods or services, usually on a commission only basis. This often applies to double glazing representatives, carpet or upholstery cleaning services, some telesales work, and so on.

44. The type of information, an Authorised Officer may request, depends on how the benefit recipient receives commission or other financial benefit from their activities. A franchisee, for instance, obtains financial benefit from any profits made after payment of the franchise and the cost of supplies.

45. An Authorised Officer can establish the cost of the franchise and supplies and the amount of the supplies provided to the claimant by asking the supplier without mentioning the benefit recipient, for example, by seeking details of supplies to the franchise.

46. Authorised Officers must have reasonable grounds to suspect that an individual is fraudulently obtaining benefit, before asking a supplier for information about them. For instance the person:

- employed in this category may often hand deliver advertising material for their goods or services on a door to door basis or they may employ someone else to do this for them. An Authorised Officer may be able to obtain evidence of their employment by accessing such advertisements and ascertaining the area covered by such advertising
- may place a local advertisement in shop windows or the local papers.



47. The information requested may include:

- the number of claimants to whom goods or services have been provided
- the length of time for which the benefit recipient has been providing claimants with goods or services
- the amount of commission or other salary or fee the benefit recipient has received as a result of providing the goods or services
- commission if paid by the supplier, the amount of that commission and the dates on which it has been paid
- the dates on which and the amount of which goods or services for re-sale have been supplied
- the date a franchise has been granted, the cost of that franchise, the payments due or made on that franchise, the amount and value of goods supplied to the franchisee, with dates, and so on.

48. An Authorised Officer may consider conducting a Fraud Drive to establish all of the people the supplier provides goods or services to. Before doing this, an Authorised Officer must have good reasons to suspect that fraud in this particular area of self-employment is prevalent.

49. For further information, see: [Fraud Drives](#).

50. Section 109B(2)(f) states:

“Any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to persons requiring them, of persons available to do work or perform services”.

51. This means an Authorised Officer can obtain information from an employment agency that provide workers, for example, temporary staff to organisations and where those staff are or have been paid by the agency.

52. An Authorised Officer can also obtain information from employment agencies that introduce staff to be employed and paid directly by an organisation.

53. Section 109B(2)(g) states:

“Any local authority acting in its capacity as an authority responsible for the granting of any licence”.

54. This means an Authorised Officer can ask a local authority (LA) about anyone working under a licence which has been granted by a LA, for example, taxicab drivers or market traders.

55. Section 109B(2)(h) states:

“Any person who is or has been a trustee or manager of a personal or occupational pension scheme”.

56. An Authorised Officer can approach any organisation that administers a personal or occupational pension scheme for details of payments made to the beneficiary.

57. Section 109B(2)(i) states:

“Any person who is or has been liable to make a compensation payment or a payment to the Secretary of State under Section 6 of the Social Security (Recovery of Benefits) Act 1997 (payments in respect of recoverable benefits)”.

58. This usually applies where the Department is attempting to recover the amount of benefit paid to a person who has been in receipt of benefit until the payment of compensation.

59. The Department has powers to approach employers and or insurance companies to determine what compensation payments have been paid, in order to determine how much benefit must be recovered from a claimant.

60. Compensation is usually paid by an employer to an employee, or ex-employee, who has suffered an industrial accident or disease or may just arise from a 'general' accident, for example, a car accident where a driver has been found liable for injuries caused. Compensation in the latter situation would be damages.

61. Section 109B(2)(ia) states:

- (a) a person who provides relevant childcare
- (b) a person to whom a person in receipt of Universal Credit ("C") is liable to make rent payments in respect of accommodation which C occupies, or purports to occupy, as their home where C's award of Universal Credit includes an amount in respect of such payments
- (c) a rent officer to the extent that the information required relates to the rent officer's functions under section 122 of the Housing Act 1996(4)
- (d) a local authority which administers a council tax reduction scheme to the extent that the information required relates to such a scheme.

62. Enquiries made in respect of rent payments, which have the meaning given in paragraph 2 of [Schedule 1 \(link is external\)](#) to the Universal Credit (UC) Regulations 2013, are restricted to claims to UC.

63. Enquiries made in respect of relevant childcare, which has the meaning given in [regulation 35 \(link is external\)](#) of the UC Regulations 2013, are not restricted to periods covered by UC. This means enquiries can be made in respect of relevant childcare services provided to a person in receipt of related benefit payments before 1 October 2013.

64. See Fraud Guide – Secretary of State Authorisations (s109) (02 Obtaining Information by Written Notice) for details on making enquiries in respect of relevant childcare and or rent payments.

65. Responsibility for the investigation and prosecution of Council Tax Reduction sits with the local authorities. See Fraud Guide – Joint working with local authorities ([Council Tax Reduction](#)).

66. Section 109B(2)(j) states:

"The servants and agents of any such person as is specified in any of the above paragraphs".

67. A servant is normally a person directly employed by someone but it has a wider definition than that of an employee. It could include an unpaid assistant, for example, a spouse who keeps their self-employed partner's books but who is not paid.

68. An agent is a person acting directly on behalf of someone else, who has the legal right to make decisions on their behalf, such as signing a contract. An example could be a landlord's letting agent, depending on the business arrangements they have.

69. The 'servant or agent' must act on behalf of a person from whom information can be obtained where there are reasonable grounds for suspecting that they have possession of or access to information which is relevant to the enquiry.

70. Servants and agents may try to refuse to provide information on the grounds of client confidentiality. However, the common law duty of confidentiality is overridden by the power to require information under Sections 109B(1) and (2) and 109C and by the Data Protection Act (DPA) 2018, Schedule 2 paragraph 5.

## Test of reasonableness

71. When an Authorised Officer exercises Section 109B(1) and (2) and 109C powers, they must always apply the test of reasonableness to their actions. This applies to both enquiries about named individuals and enquiries made in the course of a fraud drive.

72. Applying the test of reasonableness, for example, in respect of employer/employee situations, does not mean that the employer has to be suspected of an offence. However, there must be a good reason or reasons to suspect that there may be fraud or misrepresentation by employees of their work details. This applies even if the employer or supplier seems above suspicion.

73. The same applies where it is suspected that one or more people may be working on a self-employed or commission only basis and are being supplied with goods or services for re-sale to other people by an organisation or supplier.

74. The reason or reasons for making enquiries of an employer or supplier must be reasonable. The Authorised Officer must apply the test of reasonableness, that is, would an outside, impartial observer, consider the action taken as both legal and justifiable.

## **Complaints procedure**

75. If a complaint is received about the suspected misuse of Authorised Officer powers by a Counter Fraud and Compliance Directorate (CFCD) investigator, the complaint should be referred to the Team Leader or Higher Investigations Leader for consideration. The issue should be resolved at the lowest management level possible.

76. For further information, see [Complaint Resolution \(link is external\)](#).

## **02 Obtaining Information by written notice**

### **Obtaining information**

In order to obtain information under Section 109B(1) and (2), Authorised Officers are legally required to give the person a written notice. Post this notice to them in the normal way or can be e-mailed specifically to them.

An Authorised Officer must also send them a copy of the Information Leaflet as long as they are content that confidentiality will be protected, for example, it must be addressed to an individual or a company position, for example, Personnel Officer and not just the company address.

If requesting documents by post, enclose a business reply envelope of a size appropriate to the expected size and bulk of the documents requested.

Record the action on Fraud Referral and Intervention Management System (FRAIMS), when making a request to an information provider as well as follow up actions, see [FRAIMS guidance – Earnings enquiry request - CFCD](#).

### **Enquiries in respect of relevant childcare or rent payments**

Section 110 of the Welfare Reform Act (WRA) 2012 introduced additional powers at Section 109B(2)(ia), which allow Authorised Officers to make enquiries in respect of relevant childcare or rent payments, see Fraud Guide – 01 Applying the Secretary of State's Authorisation (Persons liable to provide information – paragraph 60).

Where an approach for information is identified, requests must be made using the appropriate proforma (109B [RC1 \(link is external\)](#)/109B [RP1 \(link is external\)](#)), which must be issued with an [AO10 \(RC1/RP1\) \(link is external\)](#) covering letter together with the [AO2 \(Temp\) \(link is external\)](#) Information Leaflet. Rent payment enquiries are restricted to claims to Universal Credit.

Provide the guide to obtaining information to anyone who requests it following receipt of the information leaflet. You can do this at the time of a visit, or immediately following the visit, if sufficient copies are not held at the time of the visit. For enquiries in respect of relevant childcare or rent payments the [AO1 \(Temp\) \(link is external\)](#) should be made available.

Rent payment enquiries are restricted to claims to Universal Credit

## Essential information

The Authorised Officer requesting the information must identify themselves clearly as an Authorised Officer. They must also list the information that they are authorised to obtain from the person under Section 109A/110A of the Social Security Administration Act 1992. The notice must make it clear that the person is required to provide the information listed in the written notice under the provisions of Section 109B(1) and (2).

The notice must state that under Section 109B(1) and (2) of the Social Security Administration Act 1992, an Authorised Officer requires the person to provide information they have or to which they have access. An Authorised Officer can refer to specific documents that they need to see or they can describe them.

An Authorised Officer **must** inform the person that they are not required to provide any information, whether documentary or otherwise, that tends to incriminate them or, in the case of married/civil partners, their spouse/civil partner.

The written notice:

- must specify when a response is required by, in most instances, it would be reasonable to ask the person to provide the information within 14 calendar days of the issue of the written notice
- may specify how the information may be provided

If the person contacts an Authorised Officer to ask for more time, the Authorised Officer must ask them how much longer they require and why they need the extra time. Record any contact or response from the information on Fraud Referral and intervention Management System (FRAIMS), see [FRAIMS guidance - Employers response to earnings enquiry request](#).

An Authorised Officer needs to consider whether it is effective to allow the person more time in which to respond or to visit them to obtain the information. It is important to obtain information as soon as possible in order to avoid administrative delay in dealing with the investigation.

However, there may be instances where it would be unreasonable to expect the person to be able to provide the information within a given timescale. It will be the responsibility of the Authorised Officer to negotiate any extension with the information provider.

### Example

An accountant has Pay As You Earn (PAYE) information for end of year tax return could not be expected to provide information about their accounts.

The Authorised Officer will consider each case on its individual circumstances. An Authorised Officer will need to judge, whether the reason given by the information provider constitutes obstruction.

If Authorised Officers are unsure, they should consider visiting the information provider or discuss the case with their line manager and, if necessary, consult the Digital Case Management Unit (DCMU) / Central Prosecution Team (CPT) / Crown Prosecution Service (CPS).

There are a number of different standard letters for use by Authorised Officers only when writing to a person to obtain information. Department for Work and Pensions (DWP) Solicitors and the Information Commissioner's Office have approved these letters. Do not alter the main wording of these letters without seeking advice. The letters are available as Correspondence templates on FRAIMS.

An Authorised Officer can add to the wording as necessary in order to tell the supplier:

- what information they need
- in what form the information is needed

- the date by which they wish the information to be provided

**[Redacted]**

**[Redacted]**

**[Redacted]**

**[Redacted]**

## **Obtaining Information from other information providers**

The process used for obtaining information from **[Redacted]**

must be followed when an information provider refuses to provide the information requested without sight of the requesting officer's authorisation.

The authorisation must be scanned on to the letter without the photograph and the letter must inform the information provider of their legal obligations, with regard to retaining photocopies of the authorisations. Also that, as per Data Protection Act 2018, the photocopies will be securely retained for only as long as is necessary and will not be shared with any other person.

## **Obligation of a person to provide information requested by a written notice**

The obligation of a person to provide information is only discharged when they supply all required information in the requested format to the Authorised Officer.

If the information is not received from the information provider by the due date:

- the Authorised Officer **must** contact the information provider to check that the request has been received and when a reply can be expected
- if the information provider states that the request was not received an explanation
  - of the reason for the request and
  - of the Authorised Officer powers should be given and
  - the address checked and

### **a further letter requesting the information issued**

- if the information provider at the time of the check states that the information will not be provided, the Authorised Officer must explain the Authorised Officer powers to the information provider and that they risk prosecution for not providing the information
- following this contact the Authorised Officer must issue the final request for the information and note the conversation with the information provider in the Authorised Officer's official notebook (N1) and on Fraud Referral and Intervention Management System (FRAIMS), see [FRAIMS guidance – Employer's response to earnings enquiry request](#)

Authorised Officers can request a person provide any documents that contain the required information. If necessary, the person can be required to create documents, generally computer printouts, or make photocopies of the requested documents or extracts of them. In either case, this requirement must be reasonable.

If the person does not have a photocopier or e-mail, they cannot provide photocopies or provide an e-mail copy. An Authorised Officer can, require them to provide original documents providing that in the circumstances; it is reasonable and proportionate to do so. Consider visiting the person or organisation to obtain the information if there are difficulties with the information being sent.

If more information or clarification is needed, an Authorised Officer must issue a further written notice, accompanied by another information leaflet, to obtain the additional material. Record the actions of the request for more information from the information provider on FRAIMS, see [FRAIMS guidance – Contact to employer by letter or visit](#).

The person's obligation to supply that additional material is only discharged once the information is provided to the Authorised Officer.

If the person fails to supply the information required, an Authorised Officer can consider taking action under Section 111 of the Social Security Administration Act 1992, see the Aide-memoire for Employer Prosecution on the [CFCD website \(link is external\)](#).

## 03 Obtaining Information by Visit

### Obtaining information

1. Section 109C sets out:

- how to obtain information by visit
- the people that can be asked for information.

### Powers of entry

2. Section 109C provides Authorised Officers with powers of entry to certain premises **only** with the consent of the owner/occupier of the premises.

3. From 6 April 2015, Authorising Officers must take into account [The Protection of Freedoms Act \(Code of Practice of Powers of Entry and Description of Relevant Persons\) Order 2015 \(link is external\)](#), when considering the use of Section 109C powers.

4. Failure to act in accordance with any provision of the Code of Practice does not in itself make that person liable to criminal or civil proceedings, however, the Code of Practice is admissible as evidence in any such proceedings and failure by a relevant person to have regard to the Code may be taken into account.

5. Where requested, an Authorised Officer will be required to produce a copy of the Code of Practice when visiting an information provider.

### Officers entitled to enter premises under 109C

6. An Authorised Officer may enter premises either on their own, or with other persons. These persons could be other Department for Work and Pensions officers, Local Authority (LA) officers, officers from Other Government Departments or other persons with a legitimate interest that is clearly linked to the reason for the visit, for example, matters related to benefit fraud that give rise to the visit.

7. The presence of non Department for Work and Pensions (DWP) accompanying officers at premises **must** be lawful and authorised by the officers own legislation. On no account should a person make use of a visit to further their own independent enquiries.

### Definition of 'premises'

8. Premises include:

- moveable structures and vehicles, vessels, aircraft and hovercraft
- installations that are offshore for the purposes of the Mineral Workings (Offshore Installations) Act 1971, such as, oil rigs
- places of all other descriptions whether or not occupied as land or otherwise, shops, warehouses, office buildings, agricultural land, etcetera.

### Premises liable to inspection

9. If an Authorised Officer has reasonable grounds to suspect an employee or self-employed person is working and claiming, they can seek entry to their work place in accordance with Section 109C(4)(a).

10. An Authorised Officer can seek entry to anywhere a business or trading activity is taking place in accordance with Section 109C(4)(b) which describes business premises as:

"Premises from which a trade or business is being carried on where documents relating to a trade or business are kept by the person carrying it on or by another person on their behalf".



11. In addition, an Authorised Officer can seek entry to any premises where information relating to a trade or business is kept by the owner/employer or by someone who is acting on their behalf. The premises where information is kept need not be the same place as that where the trade or business is being carried out.

### **Example 1**

The owner of a garment factory may state that none of the paperwork or employee's records are kept on the premises but are held in an office building in a different location. In this situation, an Authorised Officer can seek entry to the office building to obtain the information they need.

### **Example 2**

An employer states that their accountant holds all the employee records. Section 109C allows an Authorised Officer to seek entry to the accountant's premises in order to obtain information that is relevant to their enquiry.

12. Documents may be held by Solicitors, information should not be requested where it is the subject of legal privilege; for example, confidential communications between a legal advisor and his client for the purposes of giving or receiving legal advice, or any information obtained or documentation prepared for the purposes of legal proceedings, as opposed to business records simply being held by a Solicitor.

13. Never seek entry to a solicitor's premises without first obtaining legal advice from the Crown Prosecution Service, or the Central Prosecution Team (CPT), in Scotland.

14. Section 109C(4)(c) states the premises from where details of a personal or occupational pension can be obtained:

"Premises from which a personal or occupational pension scheme is being administered or where documents relating to the administration of such a scheme are kept by the person administering the scheme or by another person on their behalf".

15. This means a business, office premises or trading premises. For example, an insurance company or accountant's office, that are in a different location from the place where the business or trade is being carried out.

16. Section 109C(4)(d) states the premises from where details of compensation in relation to accidents, injuries or diseases can be obtained:

"Premises where a person who is the compensator in relation to any such accident, injury or disease as is referred to in "Applying the Secretary of States Authorisation"

17. This will normally be an employer's premises or those of their insurance company, an accountant's office, a Government Department, etcetera. In most cases, the premises are likely to be those of an insurer.

18. Section 109C(4)(e) gives details of the premises of where someone holds information on behalf of a compensator and states:

"Premises where a person on whose behalf any such compensator has made, may have made or may make a compensation payment is to be found".

19. Compensation should be treated as such if it:

- has been paid out
- may have been paid out
- may be paid out

by a third party on behalf of a business, company or organisation.

20. The compensation could be in relation to accidents at work, in the home, in the public domain or road traffic accidents. There may also be cases of criminal compensation.



21. An Authorised Officer can seek entry to the premises of the person who paid, or might pay, the compensation. This could be an insurance company acting on behalf of the business or organisation.

## When to visit

22. An Authorised Officer should only attempt to visit premises liable to inspection during the employer's hours of business.

23. If an Authorised Officer is making a notified visit, then that visit should suit the owner/occupier or employer.

24. Where it is decided to make an un-notified visit, this must be during the employer's normal working hours.

25. Similar principles apply to any occasion when you need to visit a private dwelling house in accordance to these instructions. **Never** visit a private dwelling house during unsociable hours, keep to hours of normal daily business, or if necessary, an early evening visit may be made.

## Notified or un-notified visits

26. In most cases, it would be appropriate to notify the employer in advance of an intention to visit. Always consider whether a visit is necessary, under Section 109B(1) and (2), an Authorised Officer can obtain the information in writing.

27. If an Authorised Officer decides that an un-notified visit will be the most effective course of action they should record their reasoning on FRAIMS before conducting the visit. In particular, the Authorised Officer should record why they consider it is necessary to make a visit and why they consider it would not be reasonable to give advance notice of the visit, see [FRAIMS guidance – Scheduling a visit](#).

28. When notifying the owner/occupier that an Authorised Officer will be visiting, allow them at least one week's notice. They should be allowed the opportunity to change the date of the visit. If the intention is to conduct a notified visit, the actions taken must be recorded on FRAIMS.

29. A copy of the Information Leaflet **must** be enclosed with the [AO18 \(link is external\)](#)/AO18W ([link is external](#)) notification letter or [AO19 \(link is external\)](#) if acting on behalf of Pensions, Disability and Carers Service (PDCS), where a pension is/has been in payment. The notification letter is included on FRAIMS as a correspondence template.

30. Do not allow an employer to make continuous changes to the date of the notified visit. It is reasonable to allow them to arrange one alternative date for a notified visit but repeated requests for alternative dates for the visit could indicate possible collusion/obstruction.

31. All actions involved with discussions with the employer must be recorded on FRAIMS, see [FRAIMS guidance - Contact from the employer](#).

32. Each case needs to be considered on its merits.

### Example

If an Authorised Officer wants to visit a small employer who asks for an alternative date because of ill health and no other person is able to supply the information, it may be reasonable to allow them to change the date of the visit on more than one occasion.

33. If the employer asks for a second time to change the date for the visit and there are no reasonable grounds, consider making an un-notified visit at the earliest opportunity.

34. Remember, entry cannot be forced.

## Seeking entry to the premises

### Business premises

35. The following instructions must always be followed when seeking entry to business premises under Section 109C. All Authorised Officers must:

- carry copies of the Code of Practice
- introduce themselves
- introduce any person(s) accompanying them
- explain the purpose of the visit
- show their authorisation to the employer
- explain the reason for any non-Authorised Officer(s) being present
- explain who the officers work for
- obtain consent from the employer.

### **Notified visit**

36. If the visit was notified in advance confirm whether the employer received the information leaflet that was sent with the notification, and confirm whether it is understood. If a copy was not issued, or has not been received, issue a copy at that point.

37. The employer should be given the opportunity to read it/have it read to them and the Authorised Officer should then confirm whether it is understood. Authorised Officers must carry a copy of the Code of Practice with them. The Authorised Officer must confirm whether the employer wishes to see the Code of Practice.

38. If the employer requests a further copy it must be issued if available, otherwise the Authorised Officer must advise that one will be issued by post or can be obtained from the internet site, [www.dwp.gov.uk](http://www.dwp.gov.uk) (link is external).

### **Un-notified visit**

39. If the visit was un-notified, issue the employer with a copy of the Information Leaflet, explain its purpose and give the employer the opportunity to read it/have it read to them.

40. The Authorised Officer should then confirm whether it is understood and whether they wish to see the Code of Practice. Authorised Officers must carry a copy of the Code of Practice.

41. If the employer requests further copies the Authorised Officer must advise them that one will be issued by post or can be obtained from the internet site.

42. Both Authorised Officers and non-authorised officers **must** comply with any request by the employer to leave the premises. Officers may only remain on the premises with the employer's consent.

43. If an Authorised Officer, or accompanying non-authorised officer, attempts to remain on the premises after an employer has asked them to leave, they will be committing trespass and may be in breach of Article 8 of the European Convention on Human Rights. The employer could take civil action against the organisation.

44. This can include:

- an Authorised Officers line manager
- any person who accompanied the Authorised Officer on the visit
- Authorised Officers themselves.

45. If access to the premises is denied, or the Authorised Officer is asked to leave, the officer must comply with the request. However, an Authorised Officer can explain, without appearing to threaten the employer that legal action may follow if their request for entry to the premises and for information is not met. No attempt must be made to force an entry.

46. If access to the premises is denied, a record should be made in the Authorised Officers' official notebook (N1) of the refusal including as much detail of the circumstances and conversation as possible.

47. The official notebook notes must be summarised on FRAIMS and cross-referenced as soon as is possible, as this may be needed if criminal proceedings are instigated, see [FRAIMS guidance – Ineffective visit](#).

48. Only authorities such as the police, can force entry into premises against the occupier's or owner's wishes and then only in certain specific circumstances. Police Constables, for instance, have special powers that enable them to exercise reasonable force to effect an entry in order to enforce certain legislative powers. Authorised Officers have **no** such powers of enforcement.

49. Once consent to enter the premises has been given and remains in place, by the owner/occupier the Authorised Officer may:

- make an examination of those premises and conduct any necessary enquiries there
  - question any person, except minors, whom the Authorised Officer finds there
  - require any person present to provide:
    - information
    - produce any documents or copies or extracts from documents
- the Authorised Officer may reasonably require in respect of the investigation.

## **Private dwellings**

50. An Authorised Officer can seek entry to premises used wholly, or in part, as a private dwelling if they have reasonable grounds for suspecting that the premises are being used for the purposes set out under;

- definition of premises,
- premises liable to inspection, and
- when to visit premises liable to inspection.

51. If the Authorised Officer has any doubts about the course of action proposed, and the need to seek access to a private dwelling, for example, because of intrusion into privacy, legal advice should be sought.

52. An Authorised Officer can seek entry to a private dwelling house where there are reasonable grounds for suspecting that:

- a trade or business is being conducted
- documents relating to a trade or business are kept by the persons carrying it on or by another person on their behalf.

53. Whenever an Authorised Officer seeks entry to a private dwelling or part of a private dwelling, it is essential that the request is fully justified, for example, there must be good and firm evidence that the trade or business is being carried out at the dwelling or that relevant documentation is kept there.

54. The following are examples of what would be evidence reasonable grounds:

### **[Redacted]**

This list is not exhaustive

55. Where firm evidence for the use of Section 109C powers of entry do exist, the Authorised Officer should attempt to visit the owner/occupier in the normal way, by notified or un-notified visits, as appropriate in the circumstances of the individual case.

56. A record of all attempted visits and letters sent to, or received from the owner/occupier should be kept on FRAIMS and in the Authorised Officer's official notebook (N1).

57. Authorised Officers:

- must never attempt to force an entry to a person's house or private property.
- must always obtain consent to enter the premises from the owner/occupier.
- must show their Certificate of Authorisation.
- may once on the premises, remain there only if the owner/occupier continues to consent to their presence.
- must leave the premises if asked to do so.

- must never enter premises if the only occupant is, or appears to be, under the age of seventeen, for example, a minor or juvenile as legally defined in the Police and Criminal Evidence (PACE) Act 1984, England and Wales.

58. Where any/each of the bullet points above apply, the Authorised Officer must record the full name and position of the relevant person or owner/occupier in their official notebook (N1) and on FRAIMS so that there is an audit trail of events recorded.

59. Once consent to enter the private dwelling has been given and remains in place, by the owner/occupier the Authorised Officer may:

- make an examination of those premises and conduct any necessary enquiries there
  - question any person, except minors, whom the Authorised Officer finds there
  - require any person present to provide:
    - information and/or
    - produce any documents or copies or extracts from documents
- the Authorised Officer may reasonably require in respect of the investigation.

60. Where the owner/occupier has given consent for entry to the premises, consent is not required from the person that keeps the records. If the owner/occupier has no knowledge of the business the Authorised Officer must decide if the request to provide documentation is reasonable.

### **Example 1**

John Martin owns the house that he and his son, Donald, live in. Donald works as a self-employed painter and decorator employing three people, running the business from his home address. At the time of the visit Donald is out working. However John consents to the Authorised Officer entering the property. As John knows where his son keeps his business records it is reasonable to ask him to produce the relevant documentation.

### **Example 2**

Sam Hilton is the landlord of the building that Mary Dobbin rents and runs a knitwear business from. Mary employs four out-workers. At the time of the visit Mary is not at home. However Sam is present repairing a leak for his tenant. Sam consents to the Authorised Officer entering the property. As Sam has no idea where Mary keeps her business records it is not reasonable to ask him to produce the relevant documentation, in addition the Authorised Officer must not search the premises, and must not ask Sam to search the premises, in an attempt to locate any relevant documentation.

61. If the Authorised Officer has prior knowledge that the Record Keeper has refused consent for the documentation to be inspected, the Authorised Officer cannot forcibly inspect them.

62. If access to the premises is denied, a record should be made in the Authorised Officer's official notebook (N1) of the refusal including as much detail of the circumstances and conversation as possible. The official notebook notes should be summarised and cross-referenced as soon as is possible on FRAIMS. This may be needed if criminal proceedings are instigated.

63. For more information, see [FRAIMS guidance – Effective visit](#).

## **Conduct once entry obtained**

64. Once an Authorised Officer has obtained consent to enter premises remember that Section 109A/110A confers no powers to detain anyone in any circumstances.

65. An Authorised Officer may request employees to remain or may ask the employer to make this request.

66. An Authorised Officer must not make any threat or intimate that any action may be taken against any person who does not comply with the request to remain on the premises and be available for questioning.

67. If a person obstructs, delays or refuses to answer questions put to them, an Authorised Officer can consider recommending criminal proceedings against them under Section 111 of the Social Security Administration Act 1992. This would normally apply to employers as opposed to any other persons found on the premises.

68. An Authorised Officer can, however, explain, without appearing to be threatening, that legal action may follow if the request for information is not met.

69. Once in the premises, with the owner/employer's permission an Authorised Officer can conduct any enquiry that is appropriate to meet the requirements of the investigation. This allows an Authorised Officer to go into every part of the premises as is reasonable to check, for instance, to see if there are employees working in other parts of the premises.

70. An Authorised Officer and any other accompanying persons can question anyone who is present on the premises. Authorised Officer's need to exercise their judgement, once on the premises, as to who they need to question.

71. Many fraud drives are conducted on premises where there is a mechanical production or processing operation. For reasons of health and safety, an Authorised Officer may ask, but cannot insist, that the employer shut down the normal mechanical operations. This situation may arise where an Authorised Officer needs to interview people on the shop floor because there are no alternative facilities and the person or persons they wish to question are working beside noisy machinery.

72. Conducting an interview next to working machinery could cause the machine operator to lose attention and cause an accident. However, an Authorised Officer should also be aware of the potential cost implications to the employer of shutting down certain machines.

73. As these procedures must not normally place extra burdens on businesses an Authorised Officer may need to interview the operator at a time when they are not operating the machinery, for example during a tea or lunch break. Otherwise a claim could be made for the costs incurred to the business as a result of complying with such a request.

74. The request must therefore be reasonable, taking account of costs, health and safety, and the need to speak to the machine operator specifically.

75. Persons interviewed may ask for a copy of the Code of Practice. If so the Authorised Officer must provide a copy of the Code to the person being questioned.

76. If the Authorised Officer does not possess sufficient copies to issue to those persons who request a copy they should guarantee to issue a copy to them, by post, on their return to the office.

77. The Authorised Officer should make a record of the request and the address to which it must be sent in their official notebook. If the person insists that they wish to see a copy before they are interviewed the Authorised Officer should allow them to look through the reference copy before continuing with the interview.

## **Warning persons questioned under Section 109C**

78. Whenever questioning an employer, or their representative, on a visit to premises under Section 109C, an Authorised Officer must advise them that they are not required to provide any information, whether documentary or otherwise, that tends to incriminate them or, in the case of a married/civil partners, their spouse/civil partner.

79. Evidence obtained from a person without giving this warning and used to obtain a conviction, is likely to be a breach of Article 6 of the European Convention on Human Rights; for example, the right to a fair hearing and a breach of Section 109C.

## **Obtaining documentary evidence**

80. When an Authorised Officer has obtained entry to premises, Section 109C allows them to require anyone on the premises to produce and give access to documents held or extracts from documents that the Authorised Officer requires, as long as it is reasonable to make such a request. This includes, if necessary, providing:

- a computer printout
- an electronic/disk copy or
- photocopied documents or extracts of documents.

81. For instance, it would not be reasonable to expect an employer who does not possess a photocopier, to provide an Authorised Officer with photocopied documents. In this type of situation an Authorised Officer may ask permission to remove documents if there is no other way of obtaining the information. On receiving consent to do so the Authorised Officer should complete receipt form QB300, listing the documents taken and arrange to photocopy and return them as soon as is possible.

82. On no account retain original documents removed from an employer's premises any longer than necessary. Normally the documents should be returned personally, and a [QB300 \(link is external\)](#) receipt for their return obtained. On return the Authorised Officer should also ensure that the employer is made aware of the requirement to retain the documents if criminal proceedings are being contemplated.

83. Authority to remove documents is not the same as the police power to seize documents, or other items, under a warrant.

84. An Authorised Officer may remove documents only if there is no other way of obtaining the information needed and the Owner's consent has been obtained.

85. If questioned, an Authorised Officer must advise the person that Section 109C(3)(c) of the Social Security Administration Act 1992 (as inserted by the Child Support, Pensions and Social Security Act 2000), gives Authorised Officers the authority to remove documents from the premises. However, Authorised Officers must also explain that they cannot use this provision to insist, against the owner's will, on taking the documents.

## 04 Other Enquiries

### Individual enquiries

1. The investigator must ensure that there is sufficient evidence to provide reasonable grounds for making any enquiries.

2. When the suspicion is that the claimant is in undeclared remunerative employment and receiving benefit the enquiry usually consists of asking:

[Redacted]

### England and Wales

4. There is no need for a MG11 statement to be obtained from the employer unless prosecution is recommended by the Team Leader (TL) or Higher Investigations Leader (HIL), where:

- [Redacted]  
In all other cases a MG11 will be required.

5. If the TL or HIL recommends prosecution it will be necessary for a MG11 witness statement to be obtained. The investigator must obtain a statement to cover the payment of wages and recognition of the claimant as an employee. This may require taking a statement from more than one person.

### Scotland

6. In Scotland, corroboration is required to identify the accused and confirm payment details as indicated on the EQ1, usually the person who signed the EQ1 is required. Witnesses should be named on the EQ1.



7. If the case goes to court and a not guilty plea is entered, statements from witnesses who can identify the accused and the witness who can give evidence about wages paid are required.

## **Joint Working Protocol**

8. When visiting employers, investigators must be aware that offences could have been committed against other Government Departments or Organisations **[Redacted]**.

9. Investigators must therefore be familiar with the information contained in the Joint Working Protocol, available on the [Counter Fraud and Compliance Directorate website \(link is external\)](#), which explains the roles and remits of the various Government Departments and organisations.

10. Information obtained that is appropriate to another Government Department or Organisation must be disclosed to them in accordance with the Protocol.

## **Irregular employment records**

11. In the course of an enquiry investigators may uncover **[Redacted]**.

12. An investigator may obtain **[Redacted]**.

13. In such circumstances the investigator should advise the employer, or their representative, that they are making a note of their discovery, the request to remove the documents, and the refusal.

14. This should be recorded contemporaneously in the official notebook (N1) and a summary included on FRAIMS, see [FRAIMS guidance – Employer's response to earnings enquiry request](#).

15. The investigator may also advise the employer, or their representative, if appropriate, that they will need to make Her Majesty's Revenue and Customs (HMRC) aware of the circumstances observed, and that they may wish to make separate enquiries in due course.

16. If questioned, regarding the reasonableness of this intention; the investigator should advise the employer or their representative, that the Social Security Administration (Fraud) Act 1997 and the Finance Act 1997 created a legal gateway for the exchange of information between the Department for Work and Pensions (DWP) and HMRC for the prevention, detection, and investigation of suspected offences.

17. A legal gateway does not exist for Local Authorities to pass this information directly to HMRC. Information should be passed via the Operational Intelligence Unit (OIU).

18. If it is considered that there is a serious risk of identified documents being destroyed, consider an immediate approach to the police for assistance. The actions of approaching the police must be recorded on FRAIMS. For more information, see [Search and Seizure](#).

## **Living Together As a Married Couple investigations**

19. **[Redacted]**

20. Any approach to the employer must be balanced with the evidential needs of the investigation and the potential human rights issues that may arise. For example, if the employee works for a small firm, any contact with the employer could become public knowledge and could damage the employee's reputation.

21. For more information, see [Living Together Investigations](#).

22. While other avenues of investigation should be pursued initially, there must be strong grounds for making an approach to the employer and therefore should not be carried out **[Redacted]**.



23. [Redacted]

24. [Redacted]

26. In exceptional circumstances, where surveillance cannot be carried out, officers authorised to use Section 109B (1) and (2) and 109C powers may approach employers for information. It must be noted clearly on FRAIMS the reasons why surveillance could not be conducted.

27. In considering seeking this information the investigator **must** consider and note on FRAIMS the following points:

- is the information being requested necessary, reasonable and proportionate to the investigation?
- will the requested information assist in taking the investigation forward? For example, the employer:
  - provides the investigator [Redacted]
- is obtaining the information the least intrusive means of obtaining evidence?
- is the employer likely to inform the suspected partner of the enquiry?

28. The above paragraph may apply where the:

- home location is unsuitable for surveillance
- home postcode is designated as a potentially violent area
- [Redacted]

29. Where the individual is a shift worker, the investigator should consider contacting the employer with a general enquiry, not specifically referring to any employee, in order to establish what the working times are for each of their shifts. This will then enable the investigator to conduct surveillance, once authorised, at suitable times to identify which shift the individual is working.

## Making enquiries about Crown Officers

30. Authorised officer powers may be exercised in relation to officers who hold an office under the Crown or who are in the service of the Crown. The powers can also be exercised in premises owned or occupied by the Crown.

31. This means that if necessary, investigator can ask for information about employees of another Government Department providing there are reasonable grounds to suspect fraud.

## 05 Local Authority Powers

### Legislation

1. Local Authority (LA) powers are set out in Section 110A of the Social Security Administration Act 1992 (as amended by Schedule 6 of the Child Support, Pensions, and Social Security Act 2000).

2. This allows LAs to exercise the powers in Sections 109B(1) and (2) and 109C for investigations involving Housing Benefit (HB)/Council Tax Benefits (CTB) only, to:

- ascertain whether HB or CTB is or was payable in any particular case
- ascertain whether the provisions of the relevant Social Security legislation relating to HB/CTB are being or have been or are likely to be contravened - whether by an individual or by more than one person
- prevent, detect and secure evidence of the commission (by an individual or more than one person) of HB/CTB benefit offences.

3. LA Authorised Officer powers are not confined to the geographical area covered by the LA that authorised them.

4. Section 110A allows an Authorised Officer to exercise the powers of entry contained in Section 109C. Entry has to be subject to the owner/occupiers consent.

5. The premises that can be inspected are those where the Authorised Officer has reasonable grounds for believing they are premises where:

- persons are employed;
- a trade or business is being conducted;
- records relating to a trade or business are kept.

6. See [Private dwellings](#), regarding entry to private dwelling houses.

7. Section 110A (2) defines the purposes for which the powers can be used. An Authorised Officer is lawfully allowed to ask certain people and organisations for information for the following purposes:

- to establish whether HB or CTB is or was correctly payable in any individual case
- to establish whether the provisions of the relevant Social Security legislation, that relate to housing benefit or council tax benefit:
  - have been
  - are being or
  - are likely to be
- contravened whether by particular persons or more generally;
- to:
  - prevent benefit offences being committed
  - detect benefit offences
  - secure evidence of benefit offences
- relating to housing benefit or council tax benefit, by any one or more individuals.

8. The power to visit a Landlord's premises is provided under Section 109C (4)(b) and Section 109B(2)(j). An Authorised Officer can require information from:

- a landlord as a self-employed earner under Section 109B (2)(2)(b) and/or
- the landlord's servants or agents under Section 109B (2)(2)(j).

## **Examples**

### **Fictitious tenants**

9. The suspicion may be that the landlord is receiving benefit for a fictitious tenant. In these cases the enquiry is likely to consist of, in the first instance, visiting the suspected claimant's address.

### **10. [Redacted]**

### **Claimant no longer resident**

11. A suspicion may arise that a claimant has left a property without informing the Local Authority. In these cases the Authority may not only want to visit the tenant's address to check on residence but, if this proves inconclusive, **[Redacted]**

### **Houses in Multiple Occupation (HMO) claims**

12. It may come to an Authority's attention that more benefit claims are being submitted for a specific house than there are rooms. **[Redacted]**

## **Local Authority Section 110A authorisations**

13. Staff working for:

- a Local Authority (LA)

- another authority that carries out Housing Benefit/Council Tax Benefit (HB/CTB) functions on behalf of the LA
- a person authorised by or on behalf of, the LA or another Authority for the purpose of carrying out HB/CTB functions may be appointed to exercise Section 110A powers.

14. A LA officer or other person, can only be authorised by:

- an officer designated under Section 4 of the Local Government and Housing Act 1998 as the head of the Authority's service or
- the Authority's Chief Executive or
- the Authority's Chief Finance Officer.

15. The Secretary of State requires, under the powers given by Section 110A(7)(c), that each Authority must supply the number of appointments that have been made, and of any subsequent changes.

16. These must be notified in writing to Counter Fraud and Compliance Directorate Criminal Intelligence. Notification must include the authorised persons:

- name
- name of Local Authority
- telephone and fax numbers
- e-mail address, if available.

17. Criminal Intelligence adds to or updates the information held on the database.

## Secretary of State Powers over Local Authority authorisations

18. The Secretary of State can direct whether any Section 110A authorisations should be granted by an LA or other authority and also:

- the period for which an authorisation is granted
- the number of people who are allowed an authorisation at any one time
- the restrictions (if any) that can be applied on any authorisation.

## 06 Authorised Officer forms

### Forms in Fraud A-Z

<a href="#">AG1 (link is external)</a>	Request to agree to delegation of the offer of an Administrative Penalty/Caution
<a href="#">AG2 (link is external)</a>	Outcome of Administrative Penalty/Caution – Delegation of Function cases
<a href="#">AO1 (link is external)</a>	Code of Practice - Obtaining Information from Employers, Contractors and the Self Employed
<a href="#">AO1 (Temp)</a>	A guide to the powers of Authorised Officers and their limitations

<a href="#">(link is external)</a>	
<a href="#">AO2 (link is external)</a>	Obtaining Information from Employers, Contractors and the Self Employed
<a href="#">AO2 (Temp) (link is external)</a>	A guide for employers, contractors, self-employed people, childcare providers, landlords/managing agents, pension providers and licensing authorities
<a href="#">AO2W (link is external)</a>	Obtaining information from Employers, Contractors and the Self Employed (Welsh)
<a href="#">AO6 (link is external)</a>	ID Card application form - Authorised Officer
<a href="#">AO7 (link is external)</a>	SSFA 2001 Certificate application form – Authorised Officer
<a href="#">AO8 (link is external)</a>	Request for list of employees
<a href="#">AO8W (link is external)</a>	Request for list of employees (Welsh)
<a href="#">AO10 AP (link is external)</a>	Request for information about the alleged partner
<a href="#">AO10 AP(W) (link is external)</a>	Request for information about the alleged partner (Welsh)

<a href="#">AO10 EQ1SE (link is external)</a>	Request to employer – for a self-employed person / Sub contractor
<a href="#">AO10 EQ1SEW (link is external)</a>	Request to employer – for a self-employed person / Sub contractor (Welsh)
<a href="#">AO10 RC1/RP1 (link is external)</a>	Request for information about relevant childcare/rent payments
<a href="#">AO11 (link is external)</a>	Pension version of AO10
<a href="#">AO11W (link is external)</a>	Pension version of AO10 (Welsh)
<a href="#">AO12 (link is external)</a>	Request to supplier for client information
<a href="#">AO12W (link is external)</a>	Request to supplier for client information (Welsh)
<a href="#">AO14</a>	Request to pension managers for client information
<a href="#">AO14W</a>	Request to pension managers for client information (Welsh)
<a href="#">AO16 (link is external)</a>	Final request following initial written request
<a href="#">AO16W (link is</a>	Final request following initial written request (Welsh)

<a href="#">external)</a>	
<a href="#">AO18 (link is external)</a>	Notification of intention to visit
<a href="#">AO18W (link is external)</a>	Notification of intention to visit (Welsh)
<a href="#">AO20 (link is external)</a>	Request for licensing details
<a href="#">AO20W (link is external)</a>	Request for licensing details (Welsh)

## Forms in FRAIMS A-Z

AO10EQ1	Request to employer - for an Employee
AO10W	Request to employer to complete EQ1 (Welsh)
AO11W	Pension version of AO10 (Welsh)
AO14	Request to pension managers for client information
AO14W	Request to pension managers for client information (Welsh)

# Single Fraud Investigation

## 00 Introduction

Within SFI (Single Fraud Investigations), we utilise the Welfare Reform Act, therefore we are not 'Joint Working'. The investigation conducted as part of a SFI and not joint working arrangements are:

- Housing Benefit
- Tax Credit
- Income Support
- Jobseekers Allowance
- Universal Credit
- Other welfare benefits.

Joint Working would only apply and the 'Joint Working' box (located at the Case/More Info/Other Departments box) ticked when officially working with:

- Her Majesty's Revenue and Customs (HMRC) on Valued Added Tax (VAT)
- Border Agency
- Police.

The main identified requirement is to acknowledge within Fraud Referral and Intervention Management System (FRAIMS) where joint working has been, or is being undertaken with another Agency.

## Surveillance

### 01 Introduction

1. This section provides comprehensive instructions on surveillance, the Regulation of Investigatory Powers Act (RIPA) 2000 and the Home Office Statutory [Code Of Practice \(COP\)](#) ([link is external](#)) covering the authorisation of covert (directed) surveillance.
2. Directed surveillance requires authorisation in accordance with RIPA 2000 where it is conducted covertly and undertaken for the purposes of a specific investigation or operation and is likely to result in the obtaining of private information about a person.
3. All directed surveillance activity must be carried out by the designated surveillance teams within Investigations or Serious and Organised Crime.
4. Under RIPA, the Department for Work and Pensions (DWP) cannot authorise intrusive surveillance. For information and definition of intrusive surveillance, see [Intrusive surveillance](#).
5. CFCD can only carry out covert surveillance against Department for Work and Pensions (DWP) employees as part of an investigation into benefit related fraud. If the DWP employee is involved in any other types of fraud, or wrongdoing, and Social Security benefits are not involved, the case must be referred to Internal Audit and Investigations (IA&I).



6. Where the proposed surveillance is overt, for example, use of Closed Circuit Television (CCTV), and it is considered that no private information will be obtained, a RIPA authorisation is not required. However as Central Surveillance Team Tasking Managers will develop good working relations with CCTV control room operators all approaches for CCTV information should be requested via the central teams. For further details, see [Closed Circuit TV \(CCTV\)](#).

7. The Surveillance COP provides several reasons why surveillance can be legitimately used. However, for benefit fraud investigations, the only relevant justification for the use of surveillance is for “the prevention or detection of crime”. For the purposes of paragraph 5.1 of the Surveillance COP, this means the investigation of benefit fraud offences.

8. RIPA recommends that **all** directed surveillance is authorised. In DWP, this is mandatory. **Note:** Local Authorities (LAs) in Scotland have to abide by the Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) 2000. RIP(S)A has its own [Covert Surveillance: Code of Practice \(link is external\)](#).

9. Surveillance should not be undertaken unless it is necessary, non-intrusive and proportionate to the alleged offence and has been properly authorised. This means that all other avenues of obtaining the information must be considered first.

10. Paragraph 2.24 of the Surveillance COP states that general observation does not usually require authorisation under RIPA. It is important to understand that ‘general observation’ in this context is not systematic surveillance as described in this manual.

11. RIPA authorisation is not required for observation of employer’s premises for the purposes of conducting a risk assessment to ascertain numbers of employees, to inform how best to conduct a fraud drive using s109B or 109C powers.

12. Investigators must not undertake surveillance unless they have completed the appropriate professional training and are compliant with DWP Policy.

13. [Drive-by visits \(link is external\)](#) do not normally require a directed surveillance authorisation under the terms of RIPA unless the activity is likely to obtain private information or form part of a systematic approach. A drive by must be considered by the Team Leader Higher Investigation Officer to assess the purpose and value to the investigation in addition to the timing of the activity. This should be fully documented by means of an investigative plan in addition to the fully documented decision making rationale of the team leader / Higher Investigations officer on FRAIMS

## **Referring a case for consideration of directed surveillance**

14. Investigation teams can refer cases where they identify surveillance evidence would be appropriate.

FI identifies case is possibly suitable for surveillance – completes the [Surv Req. \(link is external\)](#)

It’s important that only suitable cases are referred to the CFCD Surveillance teams.

Therefore a case conference between TL and FI must take place to confirm case is suitable for surveillance, the objective of this is:

- to identify gaps in evidence
- look for any less intrusive evidential routes
- identify exactly what evidence is sought from surveillance.

TL needs to confirm that the appropriate consideration has been given to Covert Human Intelligence Source ( [CHIS](#) )and that this has been correctly recorded.

See [FRAIMS \(link is external\)](#) guide

## **Objectives of surveillance**

15. Surveillance operations can have many objectives:

- the purpose of surveillance is to prevent or detect a crime including benefit offences

- surveillance may involve:
  - obtaining detailed information about a subject's activities
  - checking on the reliability of information received
  - obtaining information to use later in an interview
  - getting a picture of a subject's movements or work pattern
  - obtaining evidence for use in court
  - establishing a subject's whereabouts or domicile

## 01 Definitions

### Surveillance

Section 48(2) of Regulation of Investigatory Powers Act (RIPA) 2000 subject to subsection (3) sets out the following interpretation of surveillance:

- a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications
- b) recording anything monitored, observed or listened to in the course of surveillance
- c) surveillance by or with the assistance of a surveillance device

Subsection (3) states:

References in this Part to surveillance do not include references to:

any conduct of a covert human intelligence source for obtaining or recording (whether or not using a surveillance device) any information which is disclosed in the presence of the source  
 the use of a covert human intelligence source for obtaining or recording information  
 any such entry on or interference with property or with wireless telegraphy as would be unlawful unless authorised under –  
 section 5 of the Intelligence Services Act 1994 (warrants for the intelligence services)  
 part III of the Police Act 1997 (powers of the police and of customs officers)

For Local Authorities (LAs) in Scotland, the equivalent part of Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) 2000 is Section 31(2).

### Directed surveillance

Only DWP Surveillance Officers have the authority to conduct authorised directed surveillance

Directed surveillance is defined in paragraph 2.2 of the Surveillance COP with reference to section 26(2) of RIPA as directed if the following are all true:

- it is covert, but not intrusive surveillance
- it is conducted for the purposes of a specific investigation or operation
- it is likely to result in the obtaining of private information about a person, whether or not specifically identified for the purposes of the investigation or operation
- it is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under Part II of the 2000 Act to be sought

Thus, the planned covert surveillance of a specific person, where not intrusive, would constitute directed surveillance if such surveillance is likely to result in the obtaining of private information about that, or any other person.

Surveillance can be physical or electronic e.g. the monitoring of open source material.

## **Private information**

The 2000 Act states that private information includes any information relating to a person's private or family life.

Private information should be taken generally to include any aspect of a person's private or personal relationship with others, including family and professional or business relationships.

Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information.

This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person's activities for future consideration or analysis.

### **Example:**

Two people holding a conversation on the street or in a bus may have a reasonable expectation of privacy over the contents of that conversation, even though they are associating in public. The contents of such a conversation should therefore still be considered as private information.

A directed surveillance authorisation would therefore be appropriate for a public authority to record or listen to the conversation as part of a specific investigation or operation.

Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish. For example, a pattern of behaviour, or if one or more pieces of information, whether or not available in the public domain, are covertly or in some cases overtly obtained for the purpose of making a permanent record about a person or for subsequent data processing to generate further information.

In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes surveillance, a directed surveillance authorisation may be considered appropriate.

### **Example:**

Officers of a local authority wish to drive past a café for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded. However, if the authority wished to conduct a similar exercise, for example to establish a pattern of occupancy of the premises by any person, the accumulation of information is likely to result in the obtaining of private information about that person and a directed surveillance authorisation should be considered.

Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate.

### **Example:**

A surveillance officer intends to record a specific person providing their name and telephone number to a shop assistant, in order to confirm their identity, as part of a criminal investigation. Although the person has disclosed these details in a public place, there is nevertheless a reasonable expectation that the details are not being recorded separately for another purpose. A directed surveillance authorisation should therefore be sought.

## **Intrusive surveillance**

Intrusive surveillance is covert surveillance that is carried out in relation to anything taking place on residential premises or in any private vehicle and involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

The definition of surveillance as intrusive relates to the location of the surveillance, and not any other consideration of the nature of the information that is expected to be obtained. In addition, surveillance under the ambit of the 2010 Order is to be treated as intrusive surveillance. Accordingly, it is not necessary to consider whether or not intrusive surveillance is likely to result in the obtaining of private information.

## **Residential premises**

For the purposes of the 2000 Act, residential premises are considered to be so much of any premises as is for the time being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation. This specifically includes hotel or prison accommodation that is so occupied or used.

Common areas, such as hotel dining areas, to which a person has access in connection with their use or occupation of accommodation are specifically excluded.

The 2000 Act further states that the concept of premises should be taken to include any place whatsoever, including any vehicle or moveable structure, whether or not occupied as land.

## **Examples of residential premises**

Examples of residential premises would therefore include:

- a rented flat currently occupied for residential purposes
- a prison cell or police cell serving as temporary prison accommodation
- a hotel bedroom or suite
- private vehicles

## **Examples of premises that are not residential**

Examples of premises which would not be regarded as residential would include:

- a communal stairway in a block of flats, unless known to be used as a temporary place of abode by, for example, a homeless person
- a prison canteen or police interview room
- a hotel reception area or dining room
- the front garden or driveway of premises readily visible to the public
- residential premises occupied by a public authority for non-residential purposes, for example trading standards 'house of horrors' situations or undercover operational premises

## **Private vehicles**

A private vehicle is defined in the 2000 Act as any vehicle, including vessels, aircraft or hovercraft, which is used primarily for the private purposes of the person who owns it or a person otherwise having the right to use it. This would include, for example, a company car, owned by a leasing company and used for business and pleasure by the employee of a company.

## **Places for legal consultation**

The 2010 Order provides that directed surveillance that is carried out in relation to anything taking place on so much of any premises specified in Article 3(2) of the Order as is. At any time during the surveillance, used for the purpose of legal consultations shall be treated for the purposes of Part II of the 2000 Act as intrusive surveillance.

The premises identified in article 3(2) are:

- any place in which persons who are serving sentences of imprisonment or detention, remanded in custody or committed in custody for trial or sentence may be detained
- any place in which persons may be detained under paragraph 16(1), (1A) or (2) of Schedule 2 or paragraph 2(2) or (3) of Schedule 3 to the Immigration Act 1971 or section 36(1) of the UK Border Act 2007
- police stations
- hospitals where high security psychiatric services are provided
- the place of business of any professional legal adviser
- any place used for the sittings and business of any court, tribunal, inquest or inquiry

#### **Drive-bys**

- **[Redacted]**

The decision making rationale applied by the Team Leader / Higher Investigations Team Leader should be properly recorded on FRAIMS.

This should not be considered a generic activity as each consideration will be different.

Before approving a drive-by the team leader will consider if a referral to the Surveillance Team should be sought by considering the request against the following criteria:

- **[Redacted]**
- [Referring a case for directed surveillance](#)

Team Leaders / Higher Investigations team leader will be personally accountable if the drive by is conducted outside of a directed surveillance authority and is not conducted by the surveillance teams. They must therefore ensure they provide their fully documented authority and personal decision making rationale for the allowing the drive by activity to go ahead.

This should be properly documented on FRAIMS and will be different in every case considered.

- There must be a clearly documented investigative plan for each case, the drive by activity if used as a tactic outside of a directed surveillance authority (RIP authorisation ) needs to be properly considered and documented in terms of timing, necessity and value to the particular case.
- CPS will be provided with a clear documented rationale on every case where a drive by is conducted outside of a DSA (RIP authority), as to why the Team Leader / Higher Investigation Officer has made the decision to allow the activity to go ahead. This activity will be subject to disclosure and should be managed with this in mind.
- The Investigation plan will need to be shared with CPS at the time a charging decision is made.
- Negative drive bys must also be recorded and documented as they will form part of the unused material that will be potentially disclosed to the defense.

The team leader will assess the criteria against the evidence already gathered and will record the decision to reject or approve the drive-by on Fraud Referral and Intervention Management System (FRAIMS) fully detailing the reason for the decision.

Where the decision is to approve the activity the Team Leader should continue to review and ensure that all drive-by activities cease as soon as appropriate to ensure it remains proportionate and ceases immediately once the required information has been obtained.

A drive-by is not a pre-surveillance risk assessment and any drive by activity should not be mistaken or confused with any activity that takes place as part of a Pre-Surveillance Risk Assessment (PSRA). Investigators must be cautious not to undertake an unauthorised drive-by under the guise of a PSRA, as only Operational Surveillance Officers are currently authorised to conduct pre-surveillance checks, or where it's likely the drive-by will lead to private information being obtained or is, likely to be obtained.

#### **[Redacted]**

- **[Redacted]**

The investigator should record in their notebook and on FRAIMS the date and time of the drive-by and details of any vehicles sighted.

## **Unforeseen circumstances**

Directed surveillance does not include observations carried out by way of an immediate response to events or circumstances, which by their very nature, could not have been foreseen.

If the surveillance officer wishes to conduct immediate observations, urgent verbal authorisation must be sought.

Further information can be found in [Urgent Authorisations](#).

## **Joint investigations with the Local Authority**

### **England and Wales**

Where the Department for Work and Pensions (DWP) and Local Authority (LA) investigators are carrying out a joint operation involving surveillance only one authorisation by the lead organisation is required under Regulation of Investigatory Powers Act (RIPA).

If the LA is leading the surveillance operation, the surveillance authorisation must be approved by a magistrate by the granting of an order under section 32A of RIPA (inserted by Section 38 of the Freedom of Information Act 2012).

### **Scotland**

Surveillance carried out by DWP will be authorised under RIPA. Surveillance carried out by Local Authorities will be authorised under Regulation of Investigatory Powers (Scotland) (RIP(S)A) 2000.

Separate authorisations under RIPA and RIP(S)A will not be required from DWP and the LA respectively when joint operations take place. The lead authority will authorise the surveillance activities using the legislation relevant to that authority.

The provisions in section 38 of the Freedom of Information Act 2012 do not apply to LAs using RIP(S)A in Scotland. This means that surveillance authorisation for LAs in Scotland does not require judicial approval.

## **Intrusive surveillance continued**

Department for Work and Pensions (DWP)/Local Authority (LA) Authorising Officers cannot authorise intrusive surveillance under Regulation of Investigatory Powers Act (RIPA) 2000 or Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) 2000.

Intrusive surveillance is covert surveillance that:

- is carried out in relation to anything taking place on any residential premises or in any private vehicle
- involves the presence of an individual:
  - on the premises
  - in the vehicle
  - is carried out by means of a surveillance device

The 'Individual' refers to the investigator or [Covert Human Intelligence Sources](#) (CHIS).

## **Necessity and proportionality**

Obtaining an authorisation under Regulation of Investigatory Powers Act (RIPA) 2000 or Regulation of Investigatory Powers (Scotland) (RIP(S)A) 2000 will only ensure that there is a



justifiable interference with an individual's rights under Article 8 of the European Convention on Human Rights if it is necessary and proportionate for these activities to take place. See paragraphs 3.3 to 3.7 [Surveillance COP \(link is external\)](#).

In order to demonstrate necessity there must be an identifiable offence to prevent or detect before an authorisation can be granted. It is also useful to detail the seriousness or duration of an offence, including the implications if the offence was to continue.

It is important that the offence under investigation is clearly described. For example, 'failing to report a change of circumstances, in that it is alleged that a partner is living in the household'.

If surveillance is necessary, the Authorising Officer must believe that the activities applied for on the application for surveillance are proportionate to what is sought to be achieved by carrying them out. This involves balancing the intrusiveness of the activity on the targets against the need for the activity in investigative and operational terms.

The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

It is important that RIPA applications deal with proportionality by showing that the methods to be employed are proportionate to the expected result rather than describing the surveillance operation.

In order to demonstrate that the activities to be authorised are proportionate the application must:

- balance the size and scope of the operation against the gravity and extent of the perceived offence
- show that the activity requested is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result
- provide evidence of what other methods had been considered and why they would not achieve the necessary result
- explain how and why the methods to be adopted will cause the least possible intrusion on the target and others

In granting the authorisation the Authorising Officer must set out in his own words why he is satisfied that:

- the use of surveillance is necessary for the purpose of preventing or detecting crime
  - the activity to be carried out is not excessive
  - the information to be obtained cannot reasonably be obtained by other means
- Surveillance can only be authorised for the statutory period of three months. For example, a request for surveillance is authorised on 01/04/2009. The authorisation will expire at 23.59 on 30/06/2009.

In exceptional circumstances the Directed Surveillance Authority can be renewed if there are reasonable grounds to do so. Please see [renewal guidance](#)

In granting the authorisation, the Authorising Officer should not apply restrictions on timing and length of each individual period of surveillance as a means of addressing proportionality.

If there are concerns relating to frequency or duration of surveillance they should be addressed by including regular reviews within the authorisation procedure.

## **Collateral intrusion**

This means surveillance, which indirectly intrudes on the privacy of individuals who are not the direct subjects of surveillance, for example, where you observe one or more innocent bystanders, including children of the individuals subject to surveillance. The potential risk of intrusion into the privacy of persons other than the specified subject of surveillance must be considered.



Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

A [RIP1 \(link is external\)](#) must include an assessment of the risk of any collateral intrusion and why it is unavoidable. The Authorising Officer must take this into account, when considering the proportionality of the surveillance.

Authorising Officers need to take into account, where known, particular sensitivities in the local community where the surveillance is taking place or similar activities being undertaken by other law enforcement agencies that could impact on the deployment of surveillance.

## **Confidential information**

Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic information. In cases where through the use of surveillance it is likely that confidential information will be acquired, the use of surveillance is subject to a higher level of authorisation.

Annex A to The Surveillance Code Of Practice (Surveillance COP) sets the required level of authorisation for:

- Local Authorities (LAs) as The Head of Paid Services (England and Wales) or Chief Executive (Scotland) or, in their absence, a Chief Officer
- Department for Work and Pensions (DWP) as the Chief Executive

### **Matters subject to legal privilege**

Matters subject to legal privilege are described in section 98 of the Police Act 1997 in England and Wales. In Scotland, the relevant description is contained in section 33 of the Criminal Law (Consolidation) (Scotland) Act 1995.

For Northern Ireland, Article 12 of the Police and Criminal Evidence (Northern Ireland) Order 1989 contains the relevant description.

Legally privileged communications will lose their protection if there is evidence, for example, that the professional adviser is intending to hold or use them for a criminal purpose. Privilege is not lost if a professional legal adviser is properly advising a person who is suspected of having committed a criminal offence. The concept of legal privilege shall apply to the provision of professional legal advice by any agency or organisation.

### **England and Wales**

Legal privilege includes both oral and written communications between a professional legal adviser and their client or any person representing a client, when the purpose of the communication is to provide legal advice where legal proceedings may occur.

Communications and items held with the intention of furthering a criminal purpose are not matters subject to legal privilege.

### **Scotland**

Legal privilege includes both oral and written communication between a professional legal adviser and their client. It also includes communication by a person, whether or not with a professional legal adviser, that is done in contemplation of legal proceedings. In both cases the communication must be of a kind that would be exempt from disclosure in court proceedings.

## **Confidential personal information**

Confidential personal information is information held in confidence concerning an individual, whether living or dead, who can be identified from it, and relating:

- to their physical or mental health or
- to spiritual counselling or other assistance given or to be given, and
- to information which a person has acquired or created in the course of any trade, business, profession or other occupation, or for the purposes of any paid or unpaid office

Confidential personal information might, include consultations between a health professional or a professional counsellor and a patient or client, or information from a patient's medical records.

It includes both oral and written information and communications as a result of which personal information is acquired or created. Information is held in confidence if:

- it is held subject to an express or implied undertaking to hold it in confidence or
- it is subject to a restriction on disclosure or an obligation of secrecy contained in existing or future legislation

### **Confidential journalistic information**

Confidential journalistic information includes information acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence.

In cases where the likely consequence of the surveillance would be for any person to acquire 'confidential information', the surveillance will only be authorised in connection with serious crime. This is unlikely to apply in the majority of Counter Fraud and Compliance Directorate (CFCD) and LA cases. However, it remains a possibility and appropriate authorisation must be obtained.

If an investigation or operation might lead to the acquisition of confidential information contact CFCD Operational Management and Assurance (OMAT) for details of the required authorisation.

### **Authorising officer**

In Department for Work and Pensions (DWP), only an officer of the appropriate grade, not lower than Senior Executive Office (SEO), who has received the relevant training by the College of Policing, has the authority to authorise directed surveillance. These officers form part of the DWP Covert Authorities Bureau (CAB).

In Local Authorities (LAs), Regulation of Investigatory Powers Act (RIPA) Statutory Instrument Order 2010 (No.521) sets the prescription of officers, rank and positions as:

- Assistant Chief Officer
- Assistant Head of Service
- Service Manager or equivalent

For Scottish LAs, it is RIP(S)A SSI 2000 (No.343) and the prescription of officers as:

- Assistant Head of Service
- Investigation Manager

They should also have completed the Authorised Officer training by the College of Policing or its equivalent.

It is not within the spirit of the Act to allow a lower graded officer to be temporarily promoted for the specific purpose of authorisation, although provision should be made within procedures for authorisations to be covered in case of absences and leave of the Senior Leader including temporary promotion where appropriate.

Every authorisation should show the rank of the person giving it. Designated Deputies must identify themselves as such and say why they are giving the authorisation.

### **Liability**

The Human Rights Act 1998 protects an individual's rights to privacy. If there has been an intrusion into an individual's privacy investigators will need to demonstrate that it was necessary for the prevention and detection of crime. The demonstration of conformance with the Surveillance Code Of Practice (COP) and a thorough risk assessment leading to the surveillance should demonstrate that the use of surveillance was reasonable and had not been sought or authorised irregularly.

Department for Work and Pensions (DWP) and Local Authorities (LAs) are vicariously liable if there has been a breach of the guidelines, for example, the authority is responsible for the acts of its employees and to compensate individuals if it is found at fault and the aggrieved person takes civil action.

It is the responsibility of the Authorising Officers to demonstrate, via records, that authorisation, granted under Regulation of Investigatory Powers Act (RIPA) 2000 or Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) 2000, was given individual consideration, and the action authorised was necessary and proportionate, including reviews and renewals.

Failure to obtain proper authorisation for surveillance could result in the following:

- any member of the public taking civil action against the DWP or LA. The individual working for the DWP or LA would not be personally liable
- the surveillance evidence may not be used to prove the case and the case might not be accepted for prosecution
- if the lack of authorisation did not become apparent until the case was in court, the case could be dismissed, the Department or LA criticised and embarrassed and the officer admonished by the Judge, Magistrate or Sheriff
- criticism from the Surveillance Commissioner and even removal from the list of public authorities allowed to undertake directed surveillance
- the individual could be the subject of disciplinary or inefficiency action or be required to undertake remedial learning, dependant on the circumstances of the case
- the officer might have to attend an Investigatory Powers Tribunal in accordance with Section 65 of RIPA to justify their actions

## 02 Private Premises

### Directed surveillance from or within private premises

The procedures outlined in [Applying for Directed Surveillance](#) applies to making applications for surveillance from within private premises.

The use of private premises to conduct directed surveillance activity can only take place with the consent of the owner and/or occupier and must not involve trespass on or interference with property, see [Definitions – Private Premises](#)

It will usually be from inside private premises but could also apply to parking an observation vehicle on private premises.

**Example: [Redacted]**

[Redacted]

- [Redacted]

### Disclosure to the Court of the location used

#### England and Wales

The general rule of law is that Surveillance Officers should not be required to disclose the location of their observation point, except to prevent a miscarriage of justice or to establish the innocence of the accused.

In the judgement *Regina v Johnson* [1988], the Court of Appeal provided criteria which must be adopted if premises used for observation purposes are not to be disclosed in open court.

The judgement requires that the Authorising Officer responsible for the relevant RIP1 form, in collaboration with the Tasking Manager, must be able to testify that **immediately prior to trial**:

- they visited the premises used for the surveillance

- they obtained and recorded the views of the owner and/or occupier in respect of the use made of the premises **and** the possible consequences of disclosure which could lead to identification of the premises and occupiers

Such views must be recorded in the surveillance operative's official notebook and the record must be marked sensitive. It is not appropriate for a statement to be taken as this may have to be revealed to the defence and the objective is not to disclose the identity of the private premises.

This information is necessary to allow the prosecution to make a detailed and evidence-based argument requesting that identification of premises is not disclosed.

The ultimate decision on whether to disclose the location of the premises is for the trial judge. They will direct disclosure if it is considered that the interest of justice for the accused outweighs the public interest in preserving confidentiality.

## Scotland

In Scotland the question of disclosure is one for the Procurator Fiscal.

## Authorisation for surveillance

Where a request for surveillance is made the surveillance operative must show in section 3 of the [RIP1 \(link is external\)](#) application form that they intend using private premises for surveillance and have obtained the consent of the owner/occupier.

Where a request for surveillance is made, the Authorising Officer must confirm that the applicant has previously visited the owner and/or occupier and the outcome of the visit is recorded in the surveillance operative official notebook.

The Authorising Officer must be satisfied that surveillance from private premises is necessary and proportionate and that the necessary risk assessment, including collateral intrusion, has been properly considered. For more information, see [Definitions - Collateral Intrusion](#).

Surveillance into private premises – From a public place

Surveillance can be performed into private premises that are being used for work activities such as a building site or a garage providing that surveillance can be performed from a point at which the public has access. Surveillance must not involve trespass or interference with property.

If surveillance has to be performed from private premises either into private premises adjacent to the target site or from within the private premises themselves then permission must be sought from the owners of the premises, see [Directed surveillance from or within private premises](#).

Surveillance can be performed from a public highway such as looking through an open or un-obscured window to observe the suspect's activities as long as no surveillance devices are used for example, binoculars. Use of such a device would be considered to be intrusive surveillance.

## Private premises – Compliance employer cases

- **[Redacted]**

The legal view is that an employer's premises, **which are visible from a public highway** (for example, an open garage) will probably fall into the definition of Directed Surveillance. To this extent, consent from the employer is not required but surveillance must not involve trespass or interference with the property.

The application for surveillance must record if the employer is suspected of being collusive and what evidence this is based on. It must also confirm that the premises are visible from a public place and detail the location from which observations will be made.

## 03 Surveillance activity

## Methods of surveillance

There are several methods of organising surveillance operations and the choice of method will depend upon the circumstances, generally they will fall into two categories:

- static point surveillance
- mobile surveillance.

The surveillance tasking manager is responsible for reviewing applications for surveillance made by the surveillance operatives and ensuring the activity applied for is reasonable and proportionate. This consideration will be reflected in the Counter Signing Officer section of the RIP1.

It is the policy of the Counter Fraud and Compliance Directorate (CFCD) that bicycles must not be used under any circumstances when carrying out surveillance.

All surveillance must be undertaken by a minimum of two officers. In Scotland two officers would be required to carry out surveillance for purposes of corroboration.

During the course of mobile surveillance each vehicle involved must contain at least two officers, and the designated communications officer must be one of the passengers.

Should there be a need for the passenger to get out for example, to carry out surveillance on foot the driver must only communicate with the passenger when their vehicle is parked and the engine turned off.

## Investigatory Powers Commissioners Office (IPCO)

Inspections of the surveillance activities of Counter Fraud and Compliance Directorate (CFCD) teams are performed by the Inspectors of the Investigatory Powers Commissioners Office (IPCO).

The purpose of an inspection is to confirm that counter fraud activity undertaken by investigators complies with and is within the spirit of current Human Rights and Regulation of Investigatory Powers Act (RIPA)/Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) legislation.

The Inspectors within the IPCO may visit and conduct interviews/discussions with Authorising Officers and investigators. They will check surveillance records and analyse policies and training.

The IPCO will report their findings direct to the Chief Surveillance Commissioner, Local Authority (LA) Chief Executive, and Department for Work and Pensions (DWP) Head of Counter Fraud and Compliance Directorate.

If the IPCO find failings that are not addressed then ultimately the Chief Surveillance Commissioner might report the public authority to the Prime Minister or First Minister for Scotland with a recommendation to withdraw the authority to carry out surveillance.

IPCO Procedures and Guidance issued by the Chief Surveillance Commissioner explain the role of and how Commissioners carry out their statutory functions.

For more information on the role of the IPCO and how Commissioners carry out their statutory functions, see the [IPCO website \(link is external\)](#).

## Closer working and surveillance

### Local Authorities

In England and Wales, a DWP Authorising Officer can grant a directed surveillance authorisation to cover both (DWP) and Local Authority (LA) investigators involved in a joint investigation as both authorities are covered under Section 30 of Regulation of Investigatory Powers Act (RIPA) 2000 where DWP are leading the surveillance operation.

In England and Wales where the LA is leading the surveillance operation, an order under section 32A of RIPA (inserted by Section 38 of the Freedom of Information Act 2012) approving the authorisation must be obtained from a magistrate.

Where the LA has surveillance authority in place authorised by a Magistrate they should continue to complete activities. Where an LA RIPA is live at the point of transfer under SFI the Team Leader must refer the case to the Covert Authorities Bureau (CAB) who will log the authorisation and set up reviews.

If exceptional the authorisation needs to be renewed, a new application must be submitted via CAB along with all previous papers. In cases where authorisations are transferred into CAB will make arrangements for the Authorising magistrate to be informed about the action DWP will be taking.

The nominated LA lead officer will complete the application, including the names, where known, and organisation of all surveillance operatives likely to be involved in the surveillance. The Authorising Officer from the lead organisation must make the decision and retain records as described in previous paragraphs.

To ensure that the Authorising Officer is aware of the full facts of the case, the applicant must record the following information in section 3 of form [RIP1 \(link is external\)](#):

- that the request for surveillance is part of a joint investigation
- include how many of the officers to be deployed at any one time are investigators from the LA or DWP
- where known, name the investigators involved.

Where joint surveillance is authorised by one organisation, that is the lead organisation it is good practice for the investigation officer or manager of the other organisation to advise their Authorising Officer of the surveillance activity. This advice is given so that each Authorising Officer is aware of all surveillance activity being undertaken by their investigators, regardless of which organisation authorised the activity.

Exceptionally, one organisation may provide all of the investigators likely to be involved in the joint investigation's surveillance activity. Where this occurs the application for and the authorisation of surveillance will be made by the organisation that provides all of the investigators.

In Scotland, the Scottish LAs are not included in Section 30 of RIPA 2000 but are included under Section 8 of RIP(S)A 2000. However, in joint working cases between DWP and LA in Scotland where officers from both the DWP and LA are planning to perform surveillance together as a team, separate authorisations will not be needed. Whichever party takes the lead will authorise the surveillance activity using RIPA or RIP(S)A as appropriate covering the terms of which both parties will operate.

The provisions in section 38 of the Freedom of Information Act 2012 does not apply to RIP(S)A. This means that LAs in Scotland where the LA leads in the surveillance operation are not required to apply for judicial approval.

## **Other Government Departments**

Only surveillance operatives will participate in cross government working initiatives with colleagues from the Her Majesty's Revenue & Customs (HMRC) working in co-located teams across the country when required.

Surveillance operatives undertaking surveillance activity as part of cross government working do not need to be authorised by their own organisation's Authorising Officer. HMRC Authorising Officers can only authorise applications from their own officers, but they can allow other bodies' officers to conduct surveillance under that authorisation.

The surveillance operative will complete form RIP1, which must be countersigned by the surveillance tasking manager and passed to their own organisation's Authorising Officer for consideration.



The surveillance tasking manager will countersign RIP applications, reviews and changes of circumstances and cancellations.

In situations where there is no DWP benefit, including those administered by LAs Housing Benefit or Council Tax Benefit (prior to 1 April 2013) (HB or CTB), involved in the investigation, DWP or LA Authorising Officers cannot authorise any of their officers to perform surveillance.

## **Complaints**

Regulation of Investigatory Powers Act (RIPA) or Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) 2000 establishes an independent Tribunal. This Tribunal will be made up of senior members of the judiciary and the legal profession and is independent of the Government. The Tribunal has full powers to investigate and decide any case within its jurisdiction.

The Tribunal can consider complaints about any conduct, which a person believes to have been carried out in relation to them by certain Public Authorities such as Department for Work and Pensions (DWP) or Local Authorities (LAs) in the circumstances set out below:

- the interception of communications by post or telecommunications
- surveillance which has resulted, or is likely to result, in private information being obtained
- covert human intelligence which has been or is being used in relation to a person. For example, the use of a personal relationship for the purpose of getting information without that person knowing about it
- any entry or interference with property or interference with wireless telegraphy.

Persons wishing to make a complaint in the above circumstances can obtain details of the complaints procedure together with the relevant complaint form from the following address:

[Redacted]

## **04 Evidence obtained**

### **Recording surveillance activity**

The responsibility for all surveillance activity will rest with the surveillance teams. The surveillance tasking managers will task and coordinate the surveillance activity carried out by the surveillance operatives. This extends to:

- determining the tactics used on the operation
- determining the equipment and resources to be deployed for the duration of the operation
- ensuring the right surveillance evidence is collected
- producing the final surveillance product and presenting it back to the fraud investigator in a timely manner
- a file of the relevant material presented back to the fraud investigator

all correct procedures are followed to collect, edit, store and maintain surveillance evidence as documented below

Courts always consider the reliability of evidence. All evidence must therefore be correctly obtained and it must be clear that at no time has the evidence been tampered with. There must be a clear audit trail to show how the evidence was obtained and subsequently handled until the day it is produced in court, this is called the continuity of evidence.

The taking of original notes is an essential part of evidence gathering. They may have to be produced in court or referred to by the person long after they were made.

### **Surveillance logs**

Surveillance logs and official notebooks (N1) constitute original notes of evidence and as far as practicable it is essential that they are prepared and preserved strictly in accordance with



the rules of evidence. Each entry must follow consecutively with no spaces left and any items deleted must be initialled.

In response to widespread concern over the problems posed by cases of mistaken identification, the Court of Appeal in Turnbull [1977] QB 224 laid down important guidelines for judges in trials that involve disputed identification evidence.

These guidelines have been adopted by the Police and other prosecuting authorities when they are identifying people, or have witnessed and are describing incidents and are held as the standard required for court.

The guidelines should be applied whenever something may be tendered in evidence, e.g. MG11 witness statements, surveillance log. They should be recorded as part of original notes in an N1 if relevant.

The 8 points of TURNBULL may be summarised by the mnemonic ADVOKATE.

A - Amount of time under observation – How long seen?

D - Distance – How far away?

V - Visibility – What were the lighting conditions like at the time?

O - Obstruction – Was observation impeded?

K - Known or seen before – Ever seen before? If so, where and when?

A - Any reason to remember? – If seen before but only occasionally, any special reason for remembering the suspect?

T - Time lapse – How long has elapsed since seeing the suspect and subsequent identification to Police?

E - Error or material discrepancy – Is there any difference between description given and the persons actual appearance?

NO ELBOWS is a mnemonic used for the compilation of notes in the N1 notebook

No Erasures

No Leaves torn out

No Blank Spaces

No Overwriting

No Writing between Lines

SPEECH (CAPITALS)

Names in CAPS e.g. Mr John SMITH

When recording information in the surveillance log, the 24-hour clock must be used at all times.

No erasure or obliteration on notes is permissible at any time and once an entry in a surveillance log has been signed, it cannot be altered in any way. Any corrections made before sign off are to be initialled.

If a mistake is made, cross the word out with a single line and initial the mistake (the mistake still needs to be read). See [Making Entries into official notebooks](#) guidance.

The pages of the surveillance log must be numbered. A page-numbered book should be used for this purpose. No pages may be removed. At the conclusion of the operation, the surveillance log should be stored securely for future production as required.

Unnecessary spaces must be avoided between words or at the end of lines. Unused spaces should be struck out and, if a space is left after recording, a line drawn to the end and initialled.

If a mistake is identified, it is to be struck out with a single line and initialled by the officer who transmitted the information. They must also explain in writing, at the end of the log, why the entry has been deleted or changed.

The role of the loggist is to accurately record events as they are transmitted or reported to them and keep the log secure during the operation. It is the lead investigator's responsibility to ensure the surveillance log is completed.

At the commencement of the surveillance, the loggist will be responsible for completing details of the officers employed on the operation on a daily basis. These details will be recorded on the opening page.

The loggist will record the date, the time, their name and the fact that they are the loggist. On being relieved from this duty, regardless of the duration, the loggist will sign off adopting the same procedures as when signing on. When it is not practicable to conform strictly to these procedures, such facts should be recorded, as soon as possible.

The person who witnesses a particular event will initial alongside the entry where their name appears at the first available opportunity. They must also sign and date the surveillance log at the conclusion of the notes. Where it is not possible to communicate with the loggist, the person witnessing must record details, in writing, in the officer's notebook or personal issue log, of the event at the time or as soon as practicable.

Where two or more persons are present at an occurrence and where the notes have been made by only one person in their notebook, it is acceptable for these notes to be used by another person when giving evidence, provided the person who has not written the notes reads them as soon as possible after they are made, accepts that they are accurate, and signs and dates them. For further details, see [Official Notebook](#).

If notes have to be made in **an exceptional circumstance** and the N1 official notebook is not available, the note should be formally preserved as an exhibit and attached to any subsequent statement

An officer may need to record details in their personal log for example where it is not possible to transmit information to the loggist. The existence of a personal log entry must be notified to the loggist as soon as possible. The information from the personal log must be entered in the main body of the log before the conclusion of the debrief. This information must be noted as supplementary entries A, B, C in sequence. It is essential that the entries in the personal log and the main log are the same.

The names of all officers present at the debrief must be noted together with the date, time and location. The names of any participating officer not present must be listed along with reasons why. At the conclusion of the debrief, all officers present must sign the log. Those not present must view the log and sign any relevant entries as soon as is possible.

The surveillance log should be available for production, if requested by the court or counsel, who may wish to examine them. Copies of the notes must not be taken into court; the original must be used in every case. If it should be necessary to make an original note on a loose piece of paper and subsequently copy it into the surveillance log, the original note must be carefully preserved for production if required.

## Photographic evidence

Video footage or stills photography obtained from a surveillance operation may be used as evidence in criminal proceedings. In order to prove that the video or photographic equipment is reliable, strict procedures relating to the use of such equipment must be adhered to.

When using either an SLR camera, covert camera or camcorder, it is essential that the use of the equipment is meticulously recorded so that the integrity and authenticity of the recording is placed beyond reasonable doubt.

When surveillance operatives gather photographic and video evidence, in any format, they should also record this using a continuity log showing every action that was taken in relation to each piece of evidence. This must include from when they sign for any piece of equipment or memory cards from an equipment officer, if appropriate, through to all the stages of the continuity of the production of evidence.

Dedicated Surveillance Officers now have a suite of surveillance equipment allocated to them on a personal issue basis. Some other specialist equipment may be held in store for use by any team member. Where non-personal issue equipment is required, it should be signed out daily before the commencement of operations and signed back in daily after the conclusion. Where it is not possible to sign equipment back in it must be retained securely by the officer who initially signed for the equipment. The equipment log must be documented accordingly. Logs must be kept meticulously to provide probity to the courts, if required.

If, for example, a stills or digital camera was used on surveillance the following points would have to be included in a statement and therefore should be recorded in the investigator's Notebook, the:

- time and date the camera was signed for, giving the serial number, make and model
- time and date the memory card was signed for, the reference number of the memory card, the make of the memory card
- time, date and location where the seal was broken on a new film. When the film or memory card was loaded into the camera quoting the reference number
- time, date and place each photograph is taken, keeping a record of the number of each photograph taken
- identity of each person whose photograph is taken, if known, or subject 1, 2 etcetera, if not known, and/or a brief description of the subject matter of the photograph
- name of the photographer
- number of photographs taken
- time, date and place the memory card is removed from the camera
- time and date the memory card is handed over to the nominated officer if they are responsible for the printing of digital images from the memory card

The use of recording equipment, for example a Camcorder should be recorded in the officer's N1 notebook and in SOC cases the Surveillance Management Record (SMR). These can then be utilised to construct the officer's witness statement, continuity log and Surveillance Summary. These procedures will support the reliability and accuracy of the surveillance officer's statement. The continuity log will be exhibited within the surveillance officers MG11 statement.

Details of the use of recording equipment and footage obtained should not be noted in the surveillance log (SUR1) when used. This document is used to record the activities of the subjects not the officers.

It is essential that equipment featuring time and date stamp facilities are activated and set to the correct time or date prior to use and displayed on download.

This should be checked prior to every deployment and especially when clocks change in respect of daylight saving time

It is advisable to use memory card reference number provided by the stockholder who issued the memory card to the investigator when recording these actions. The individual log, showing the details of images taken, should be retained in the fraud file to which it relates.

The memory card can only be used on one operation at a time. It should not in any circumstances be used to capture evidence appropriate to another operation even if this takes place on the same day

At the end of each deployment where appropriate and where the footage has been downloaded and the continuity of evidence log updated, the card can be reformatted and used on another operation

It is recommended that a register is kept to record the memory card and signed, dated and timed by anyone who subsequently has access to these. Only one set of prints is required at this stage.

Footage/Images should be downloaded as soon as practically possible following the conclusion of a surveillance deployment.

The memory card or DVD, whichever is applicable, should be given an exhibit number by the officer who took them, using their initials and an identifiable reference number with initials MH: - A1/MH1, A1/MH2 and so on (England and Wales only).

Exhibit a DVD of footage obtained as Initials/Date/1, for example SJN/07.03.18/1

The number would increase for subsequent footage obtained i.e SJN/07.03.18/2. – note the date should follow the dd.mm.yy format to prevent duplication for footage taken on 11<sup>th</sup> January and 1<sup>st</sup> November i.e 11117 and 11117 (the only dates where this could happen)

Following the downloading of footage a master copy is created and sealed in an exhibit bag as above. A working copy is then created. Both are handed to the surveillance OIC. This is recorded in the SMR and the surveillance officers N1 notebook.

All images/footage are then deleted from the recording device.

In Scotland procedures are different, documents produced as productions can be certified under section 279A of Criminal Proceedings (Scotland) Act (CP(S)A) 1995, however, these certificates are prepared by the Digital Case Management Unit (DCMU), and submitted with the report to the Procurator Fiscal (PF).

The surveillance officer must account for the secure whereabouts of the prints at all times and be able to state that the prints have not been tampered with. In SOC cases this would be the Surveillance OIC.

Photographs that will be used in evidence will eventually be placed on the prosecution file. Where the surveillance officer decides to store memory cards or DVDs elsewhere, the fraud file and notebook should describe clearly where they are held and provide the reference number for retrieval purposes together with the procedure for retrieval.

The disclosure officer will have to view the video footage, photographs and the register as part of any eventual disclosure procedure and any unused photographs and the register will have to be listed on the unused material schedule.

Details of the location of the evidence must be recorded on FRAIMS, see [FRAIMS Guidance – 06 Recording Surveillance Activity \(link is external\)](#).

## **Transfer of digital images to other recordable formats**

- It will be necessary to transfer digital images captured during surveillance, from a memory card or a camera's hard drive if a **[Redacted]** or **[Redacted]** is used, onto another secure recordable format for example, Digital Versatile Discs (DVD), Compact Discs (CD) **[Redacted]**. The new Nanocams contain a removable mini SD card.

You must ensure that all images and footage taken are transferred on to the new format.

We should download all the material from the item ( piece of equipment ) onto DVD as soon as practicable; preferably, at the end of the deployment, then we copy a further disc from that item ( piece of equipment ), not a copy of the disc.

All recordings made must be downloaded. Nothing should be deleted from the recording device prior to downloading:

- One is then sealed in an exhibit bag as a Master Copy. Do not attempt to delete any recorded images on the master copy.
  - The other labelled working copy.
  - Any editing then undertaken from the Working Copy.
- Once the images have been burned onto a Master Copy, the sealed Master Copy must be locked in a secure environment.

The transfer of data must be fully documented on continuity log which must be retained securely with the transferred data, with a copy being provided with final evidence package..

The footage on the camera's hard drive will be erased once a DVD has been produced so that it can be used in future surveillance operations.

- These actions should be carried out as soon as practically possible following the conclusion of surveillance duties. If the investigator does not have the necessary software for transferring images from a memory card or **[Redacted]** or **[Redacted]** to a DVD a surveillance editor must be asked to carry out this action.

### **Surveillance editing capability**

CFCD surveillance teams have an officer who has been authorised by the surveillance tasking manager to use an editing suite that contains software for the transfer of digital images from a memory card or camera's hard drive and for editing DVDs. Only the nominated officer will have the software for editing DVDs.

These officers have editing capacity and the laptops are referred to as editing suites to distinguish from other IT.

Once the surveillance officer has burned the footage onto a DVD the images on the memory card or camera's hard drive will be deleted. The surveillance officer can give a statement explaining the actions taken if required, see Specimen Witness Statements – [Surveillance - DVD Produced by surveillance officer](#). However the continuity log will be exhibited within the surveillance officer's MG as part of normal practice.

### **Editing of recorded footage**

Footage obtained during a surveillance operation may include information that is either irrelevant or of no interest to the investigation. The surveillance operative will review the footage and ensure only footage relevant to the investigation is compiled and returned to the fraud investigator. The full footage will be retained.

Once an edited copy of the DVD footage has been obtained the original working copy as well as the edited DVD must be retained. The surveillance editor must record the activity on the continuity log.

It is advisable to make multiple copies of the edited footage for multiple end users such as, Decision maker, FI and CPS

### **Logging of photographs and videos**

In this section, for ease of reference, the term 'video' may apply to any recordable format for example, DVD, CD, memory card and so on.

Photographs or video recordings taken during a surveillance operation must be recorded in the investigator's Notebook or an individual surveillance log, if appropriate. If large numbers of photographs or video footage are taken in the course of a day, they should be recorded in a photographic log or an individual surveillance log. This should be kept for production as an exhibit. These procedures will support the reliability and accuracy of the investigator's statement. Any photographic evidence obtained during the course of surveillance should be recorded in either the individual's surveillance log and/or cross referenced to the operational surveillance log at the appropriate time of the event.

Should digital images or video require editing or highlighting, this must be done on a working copy and not the original. A separate statement must be obtained from the laboratory technician responsible for the editing or highlighting and the investigator must include in his

own statement details of the movements of the original video to and from that technician or any other person. The original video must be retained as secure evidence.

Recorded visual evidence may be available from another source, for example a Post Office, Jobcentre Plus, Local Authority (LA) or cheque cashing shop, usually in the form of a Closed Circuit Television (CCTV) tape or DVD.

In England and Wales (E&W), the witness or operator concerned must produce the video and relevant stills as evidence. Statements relating to the operational loading, recording and unloading of recording equipment within an establishment should be taken from the relevant witness or person who operated the equipment. Their statement should include the handing over of the video as their exhibit to an officer of the department. The video, now an exhibit itself, should always be played back to the original identifying witness, the person who served or viewed the suspect, for that person to be given the opportunity of identifying any suspect or suspects to the officer and be recorded in their witness statement.

The statement should also set out the procedures adopted by the person responsible for the use of the video, (with a view again to establishing the reliability of the video) the statement should cover for example:

- the origin of the video and whether it was pre-erased
- the procedure adopted for loading it – setting the date and time on it
- the procedure adopted for taking it out of the recording equipment and what happened to the video once it was taken out of the recording equipment (continuity evidence)

It is important to realise that any footage made during the time when the Department for Work and Pensions (DWP) has asked the operator to direct the camera towards a particular area or individual is evidence. This should only be considered in collaboration with an Authorised Officer and only conducted on a person who is subject to a Directed Surveillance Authority, authorised under RIPA. The whole period of increased coverage must be obtained and the relevant material placed on a compilation video. The remaining footage will need to be placed in the 'unused' material.

In Scotland, the investigator must produce the video as evidence.

If the video is to be used, for example, to confirm a transaction took place, the witness must be asked to produce a statement of facts giving an account of the transaction. If the statement seems reliable and confirms what is on the video the investigator can play back the video to the witness. They should make reference in their witness statements to having been shown the video by the investigator and their consequent identification of the suspect, noting the time stated on the video.

## **Closed Circuit TV and Automatic Number Plate Recognition Equipment**

The use of overt Closed Circuit Television (CCTV) cameras by public authorities does not normally require an authorisation under the 2000 Act. Members of the public will be aware that such systems are in use, and their operation is covered by the Data Protection Act 2018 and the CCTV Code of Practice 2008, issued by the Information Commissioner's Office. Similarly, the overt use of the Automatic Number Plate Recognition (ANPR) systems to monitor traffic flows or detect motoring offences does not require an authorisation under the 2000 Act. For further information, see: [Automated Number Plate Recognition \(ANPR\) Guidance \(link is external\)](#).

**Example:** Overt surveillance equipment, such as town centre CCTV systems or ANPR, is used to gather information as part of a reactive operation, for example, to identify individuals who have committed criminal damage after the event. Such use does not amount to covert surveillance as the equipment was overt and not subject to any covert targeting. Use in these circumstances would not require a directed surveillance authorisation.

However, where overt CCTV or ANPR cameras are used in a covert and pre-planned manner as part of a specific investigation or operation, for the surveillance of a specific person or group of people, a directed surveillance authorisation should be considered. Such



covert surveillance is likely to result in the obtaining of private information about a person, namely, a record of their movements and activities and therefore falls properly within the definition of directed surveillance. The use of the CCTV or ANPR system in these circumstances goes beyond their intended use for the general prevention or detection of crime and protection of the public.

**Example:** A local police team receive information that an individual suspected of committing thefts from motor vehicles is known to be in a town centre area. A decision is taken to use the town centre CCTV system to conduct surveillance against that individual such that he remains unaware that there may be any specific interest in him. This targeted, covert use of the overt town centre CCTV system to monitor and/or record that individual's movements should be considered for authorisation as directed surveillance.

**Example:** Counter Fraud and Compliance receive information that a claimant in receipt of benefit is working for a local retailer. The owner of the retail premises, which have CCTV in place, is approached to request access to future CCTV footage. Although the person under surveillance has been identified; CCTV will not be used to target the individual's specific movements. In this scenario directed surveillance authorisation must be obtained as the use of overt CCTV and request for footage is pre-planned.

## Approaching CCTV Operators

All approaches to external and internal CCTV operators must be made by a Central Surveillance Team Tasking Manager by means of a [CCTV1 \(link is external\)](#).

When making an initial approach to a CCTV operator a copy of the [CCTV Protocol \(CCTV1\) \(link is external\)](#) signed both by the Central Surveillance Team Tasking Manager and the operator should be handed to the operator. A signed copy of this document should be retained in the evidence file. This document explains the legal requirements for obtaining CCTV footage and how it should be supplied.

Some information providers may request that their own version of the CCTV Protocol is used; this could mean that the wording is slightly different to the CCTV1. These requests should be accepted providing that the revised document contains all the required information contained in the national protocol and does not breach the DWP data protection policy.

## Obtaining CCTV images from Land Securities Trillium

In the event of a Central Surveillance Team Tasking Manager wishing to secure CCTV footage locally from Land Securities Trillium, they should contact the Trillium Customer Services Helpdesk on **0870 6060065 (40 \* Personal data (absolute exemption in relation only to information that is the personal data of the applicant))**

Give Trillium details of the office site and the date the CCTV evidence is required for, requesting a job order number. Confirm the request by sending an e-mail to Land Securities Trillium with a copy of the CCTV Protocol (CCTV1), Include in the request that this is in connection with an on-going criminal investigation and the evidence must include the stated job order number obtained from Trillium Other Devices.

CCTV footage is requested by the surveillance team as part of a Directed Surveillance Authority (authorised on a [RIP1 \(link is external\)](#)).

Private CCTV should not be used for directed surveillance, as a matter of course. However, in the exceptional circumstances where it is considered essential, then a referral should be made to the CAB to seek legal advice, specific to the circumstances of the particular case.

It should also be noted that the application of this advice does not apply to CCTV or ANPR, operated by "Public Authorities" (defined as "Any public organisation, agency or police force"). The use of such a resource can still be considered and authorised in the normal way, if meeting the standard necessity and proportionality tests.

## Mobile camera phones

Surveillance operatives must not use any mobile phones for the purpose of obtaining photographic video evidence as: the continuity of evidence cannot be assured.

## Product of Surveillance



When the surveillance operation has been concluded the surveillance operative will forward the product of surveillance to the Investigations case owner. This consists of a, [Surveillance Summary Sheet \(link is external\)](#) or [Covert Vehicle Summary Sheet \(link is external\)](#), which will provide the detail of the surveillance activity carried out, both manned and unmanned and include a summary of the relevant points from the original notes of evidence. The Surveillance Operative must retain the original notes of evidence.

## Disclosure

If any Regulation of Investigatory Powers (RIP) forms or any information surrounding surveillance contains material, which could potentially undermine a prosecution or assist the defence, the surveillance operatives in charge of observations should alert the prosecutor of this when the file is initially submitted for prosecution.

This enables the prosecutor to make their prosecution decision on all the facts.

In all proceedings cases the duty of disclosure under Criminal Proceedings and Investigation Act arises. For further information, see:

- [Court Hearing \(England and Wales\)](#)
- [Court Hearings \(Scotland\)](#) and
- [CPIA \(Including Disclosure Officer duties\)](#)

RIP forms should usually be listed on the non-sensitive disclosure schedule

If the RIP forms contain sensitive information, they should be listed on the sensitive disclosure schedule.

The Disclosure Officer must asterisk any RIP forms containing material, which undermines the prosecution's case on whichever schedule the forms appear and provide a copy of the undermining material.

The item must be separately listed on the disclosure certificate and a copy sent to the relevant prosecuting authority.

The relevant prosecuting authority will then decide whether the form should be disclosed to the Defence.

If the RIP forms contain sensitive information and the material undermines the prosecution's cases or assists the defence, the relevant prosecuting authority will have to decide whether to apply to the Judge to determine disclosure or whether to withdraw the case.

As the RIP forms may be disclosed to the defence it is important to only include information that is absolutely relevant to the authorisation request in the application. Unless it is essential to do so do not include details of the source of the allegation or query in the application.

If the original RIP forms are required for court purposes, these must be provided to the relevant prosecuting authority and a copy retained. The Authorising Officer must annotate, initial and date the top of the copy RIP forms to show that the originals have been sent to the relevant prosecuting authority. Following the court case, the Authorising Officer must ensure that all original forms are returned at which time the copies should be destroyed via confidential waste.

## To the Appeal Tribunal

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).

For more details on the actions to be taken when a request is received from the Decision Maker, see [Decision Making](#).

## For Prosecutions England and Wales

Material obtained through covert surveillance may be used in evidence in criminal proceedings. Properly authorised surveillance should ensure that the observational evidence that has been obtained would be admissible in criminal proceedings.

The evidence or information obtained as a result of surveillance is also subject to the ordinary rules for retention and disclosure of material under the Criminal Procedure and Investigations Act 1996 (not applicable in Scotland).

### **Scotland**

In Scotland the question of disclosure is one for the Procurator Fiscal but Counter Fraud and Compliance Directorate (CFCD) and Child Maintenance Group (CMG) have a duty to reveal evidence or information obtained as a result of surveillance under Criminal Justice and Licensing (Scotland) Act 2010.

## **Automated Number Plate Recognition (ANPR) instructions**

## **Automated Number Plate Recognition (ANPR) instructions**

### **Introduction**

The [Redacted] has been set up specifically to assist the Counter Fraud & Compliance Directorate (CFCD) and Child Maintenance Group (CMG) in the acquisition of intelligence to inform criminal investigations and planned surveillance activities. Only CFCD Surveillance Officers (SO's) may utilise this service.

### **What is ANPR?**

ANPR systems are designed to capture an image of a vehicle registration mark as the vehicle passes a static camera, usually cited on main road or motorway overhead gantries. Optical Character Recognition (OCR) identifies the plate number and records it along with other information into local and then central databases.

### **[Redacted]**

ANPR requests for information are managed on FRAIMS by creating and sending an activity to the [Redacted]. See FRAIMS Guidance – [Referrals to the ANPR Desk](#).

ANPR requests for information submitted by the CMG will be managed by email, using a standard Request for Information form countersigned by a senior officer and sent to the OIU ANPR Desk inbox.

### **What information is obtained?**

[Redacted]:

•[Redacted]

[Redacted]

### **Disclosure**

See Fraud Guide [Completing the Disclosure Officer's report \(link is external\)](#) for guidance on disclosure of ANPR data in the event of a subsequent prosecution.

### **Surveillance Officer Instructions**

All ANPR requests will be handled from within FRAIMS. To submit a request:

Step	Action
1	Navigate to the required case in FRAIMS.

2	<p>Create a new activity using the following parameters:</p> <p>Description: <b>ANPR Request</b></p> <p>Type: <b>Assign</b></p> <p>Category: <b>Colleague.</b></p> <p>Leave the sub-category field blank, and then select the target of planned surveillance as the Suspect record against the activity.</p>
3	<p>Complete the relevant ANPR template (see guidance notes below) with the following information:</p> <p><b>[Redacted]</b></p>

## Automatic Number Plate Recognition request template guidance notes

**[Redacted]**

**[Redacted]**

**[Redacted]**

**[Redacted]**

**[Redacted]**

**[Redacted]**

**[Redacted]**

**[Redacted]**

**[Redacted]**

## Intelligence Officer instructions

All Automatic Number Plate Recognition (ANPR) requests will be received into a dedicated inbox on FRAIMS. To locate pending requests:

Step	Action
1.	Click on the Site Map icon on the top menu bar, scroll down to User Preferences and click on Change Position.
2.	Highlight the profile <b>FRM FIS I TFI ANPR Desk [Redacted]</b> and click on the <b>Change Position</b> button. This will grant the user access to the

	TFI inbox containing pending ANPR requests.
3.	From the home screen, enter <b>My Team's Activities</b> and select the common query <b>New ANPR requests</b> to list all new activities received.

**Note:** Occasionally a requesting officer may accidentally leave the status of the activity assigned to this inbox as **In progress** not **Assigned**. You must run a backup query on a weekly basis to ensure that any with the incorrect status entered are still captured. See **Queries** at the foot of these instructions.

Step	Action
1.	Enter the IO staff number in the <b>DWP User</b> field.
2.	Before working the request, navigate back to the <b>Change Position</b> screen and select the IO's individual user profile.

### To work a new Automatic Number Plate Recognition request

Step	Action
1.	Access the relevant case under <b>My Activities</b> , or by entering the FRAIMS reference.
2.	Highlight the Assign activity line and mark as <b>Done</b> (no other changes need to be made).
3.	Log details of the request on the <b>ANPR Requests</b> spreadsheet located at: <b>[Redacted]</b> . Enter the date of receipt, request type, FRAIMS reference, Vehicle Registration Mark (VRM), offence category, officer initials, and region.
4.	Review the details supplied on the <b>Comments</b> activity for compliance with the required submission criteria. The following details must be included (see the guidance notes below concerning request templates): Vehicle Registration Mark full name of the individual on whom surveillance will be undertaken target address postcode the correct template has been used for an Initial or Consequential request brief details of the circumstances and category of the offence

details outlining the nature of the link identified between the suspect and the vehicle, and selection of an appropriate declaration to match the nature of the link.

confirmation that ANPR data will be used solely to inform planned surveillance and that a Request for Surveillance form has been accepted by a Surveillance Team Leader.

If one or more of these criteria has not been met, the request will be **rejected** and the requesting officer notified by the IO (see step 5 below).

## **Automatic Number Plate Recognition request template guidance notes**

Two templates have been prepared for use in surveillance operations and include several declarations that must be copied and pasted into the request. (See Surveillance Officer (SO) instructions for full text of each template).

The first template must be used for all initial 90 day requests for ANPR data.

The second template must be used for any consequential ANPR requests, where further periods of data are required in addition to the initial 90 days acquired **and a RIP1 authorisation is in place**.

When completing the template, the SO must explain the nature of the link between the suspect and each vehicle; referencing any supporting financial or intelligence based links which connect the suspect to the vehicle where a positive DVLA keeper check has not been obtained, or there is no direct observation of the suspect using it.

The link must correspond to one of the following possibilities, which corresponds to the declaration options provided to the SO on the templates:

- Suspect linked via direct observation of use of the vehicle, for example:
  - a claimant has been sighted driving or being driven in a particular vehicle for a doubtful disability investigation
  - an alleged partner has been cited driving the vehicle parked in the vicinity of the claim address.
- Suspect is the registered keeper following confirmation by DVLA, for example:
  - an alleged partner has been confirmed as the owner of the vehicle which has been cited in the vicinity of the claim address
  - a claimant believed to be working has been confirmed as the owner of the vehicle cited at the claim address or employer location.
- Suspect is the Motability Scheme declared user, for example:
  - Confirmation has been received that a disabled claimant is the registered holder of the stated Motability vehicle.
- Suspect has been linked to the use of the vehicle through financial or other intelligence led links, for example:
  - The SO has identified a financial link to a suspect and the vehicle using an insurance document, payment to DVLA noted on bank statements, or similar connection
  - The SO has identified a link using internet based intelligence (such as social media information obtained from the Internet Desk), which connects a business vehicle to a claimant that has subsequently been sighted and deemed suitable for surveillance.

Where no concrete link between the vehicle and the suspect is provided, the request will be rejected, for example, surveillance has been conducted and a vehicle spotted in the vicinity of the claim address, but no supporting connection to the suspect has been identified (such vehicles may belong to third parties, including other members of the claim household, neighbours, or visitors; it is not appropriate to obtain ANPR data in this instance).

The SO must also provide a brief explanation of the circumstances of the alleged offence as well as the offence type. For example, "Doubtful Disability investigation, allegation received that the customer is undertaking work as a builder".

It is critical that the SO has confirmed that a Request for Surveillance Form has been accepted by a Surveillance Team Leader, and provided confirmation that the subject of the enquiry is linked to the vehicle by selecting the appropriate declaration relating to the link that has been identified.

The latest version of the **ANPR Data Processing spreadsheet** now includes the facility to auto-map camera hits in the locality of the target address under surveillance. Because this can vary and suspect details on FRAIMS may not necessarily reflect the location of interest, the SO must provide a valid postcode for the target address on each request. Once triage is complete, create a new activity line using the following parameters:

Description: **OIU ANPR Desk Request**

Type: **Assign**

Category: **Other-Assign**

Then enter relevant details into the Comments field (including the date and officer initials) and update the activity to either accept or reject the request as below.

### **Accept**

[insert date enquiry processed]. ANPR request accepted and issued to Sussex Police.

[insert initials of intelligence officer]

Then complete the activity line by performing the following steps:

Resolution: **Sent**

Status: **In Progress**

Set a due date for two calendar days, leaving the activity open whilst the ANPR request is in progress.

### **Reject**

[insert date enquiry processed]. ANPR request rejected due to [specify non-compliance or reason for rejection], requesting officer emailed. [insert initials of intelligence officer]

Then complete the activity line by performing the following steps:

Resolution: **Not Approved**

Status: **Done**

Leave the due date unchanged. The activity will be closed down.

## **To issue an Automatic Number Plate Recognition request:**

Transcribe the following details from FRAIMS into to the following sections of the **ANPR Data Request Form** Word Document:

**Date:** enter the current date

**Person Requesting Data:** enter IO name, role, and contact details

**Data requested from:** enter 'National Search in CSV (comma-separated value) format'

**Investigation Category:** enter 'social security offences under the Social Security

Administration Act 1992', or tailor this response to any other offences.

**VRM and dates required to/from:** enter the start date as the **90 days** prior to the date of request, time 00:00:00, and the end date as the current date (no time required). In 'Images required' enter 'No'.

**Person Authorising Request in writing:** Enter **[Redacted]**, and today's date.

**Extent of the data request:** Place a cross in the top box, 'Local BOF, BOF to BOF or NADC search - up to 90 days priority and volume investigation (Written request)'.

Save a temporary local copy of the form and attach into a new email from the DWP ANPR Desk email account.

**Note:** Copies of the request saved locally must be deleted immediately once the request has been issued.

Step	Action
1.	Send the request to the designated Police email address: <b>[Redacted]</b>  For security reasons, all correspondence with Sussex Police must be conducted by email from <b>[Redacted]</b> .
2.	A copy of the sent email must be moved to the Sent Items sub-inbox of the DWP ANPR Desk mailbox and retained for 28 days.
3.	If a reply is not received from Sussex Police within three working days, the request must be chased to ensure receipt, or log the delay on FRAIMS.

## To process a returned Automatic Number Plate Recognition result

Step	Action
1.	Sussex police will email their responses to the DWP ANPR Desk inbox at <b>[Redacted]</b> Retrieve the response from the inbox and verify the data to ensure that the correct VRM and time period has been supplied.
2.	Update the <b>ANPR Requests</b> spreadsheet with the date the response was returned.



3.	Save a temporary local copy of the raw ANPR data.
4.	Open the <b>ANPR Data Processing spreadsheet</b> and select <b>Start</b> to bring up a file dialogue box. Select the local copy of the raw data and select <b>OK</b> to import it into the spreadsheet. Enter the target postcode, suspect name, and FRAIMS reference in the dialogue box when prompted. It will then take a few minutes to analyse the data and translate into the required format.
5.	Password protect the file according to the current convention.
6.	Navigate to the ANPR Surveillance team folder located at <b>[Redacted]</b> and save the document in the correct regional sub-folder.
7.	Highlight the Comments field of the ANPR request line in FRAIMS and update the activity to log the response:  [insert date]. Response received from Sussex Police. Result saved in [insert region] sub-folder and activity re-assigned to Surveillance Officer. [insert initials of intelligence officer]
8.	Update the activity as follows:  Change the DWP User to the Surveillance Officer's staff number to re-assign the activity to them and <b>amend the activity due-date to today's date</b> . Resolution: <b>Approved</b> Status: <b>Assigned</b>
9.	Delete the local copy of the raw ANPR data and move the reply email from Sussex Police to the Saved Replies folder in the DWP ANPR Desk mailbox. Retain this email for 28 days.

## **FRAIMS Queries to enable the Automatic Number Plate Recognition Intelligence Officer to identify new requests**

New ANPR requests

Category: Colleague

Status: Assigned

DWP User: select inbox **[Redacted]**

Incorrectly entered ANPR requests

Category: Colleague

Status: In Progress

DWP User: select inbox [Redacted].

## 05 Pre-surveillance check

### Pre-surveillance Risk Assessment (PSRA)

A re-surveillance Risk Assessments must involve surveillance officers and be conducted in all cases for surveillance except for drive-bys for obtaining car registration numbers. Surveillance operatives only will undertake all site visits.

The purpose of pre-surveillance risk assessments is to establish that surveillance is relevant to the investigation, that the information cannot be obtained by other less intrusive means and to ensure that any proposed surveillance activity is properly planned. It is acceptable for lone officers to carry out pre-surveillance activities.

A pre-surveillance risk assessment must involve surveillance officers:

- conducting background checks from other sources such as benefit computer systems, Automatic Number Plate Recognition (ANPR), Passport images
- visiting a location to identify if it is suitable for surveillance for risk assessment purposes, also checking relevant on line mapping tools, this should be completed by the surveillance operatives
- checking CCTV coverage from location maps
- surveillance is planned at different times of the day at a particular location the risk assessment should cover all the proposed times.

**Note:** If more than one location is involved, a visit can be made to each location.

A written Health and Safety risk assessment must be completed using the [Risk Assessment Pro-forma \(link is external\)](#) and attached to the activity on Fraud Referral and Intervention Management System (FRAIMS).

More than one PSRA may be undertaken but must be necessary to reinforce the risk assessment. If so, full details as to why more than one visit was considered necessary must be noted in an email to the surveillance team tasking manager and agreement obtained. If the decision of the surveillance team tasking manager is for another PSRA, attach the e-mail with the decision of the surveillance team tasking manager to the FRAIMS activity, see [FRAIMS guidance - 01 Pre-Surveillance Checks \(link is external\)](#).

It may also involve Other Government Departments (OGDs) where there is a legal gateway for exchange of information or where a Memorandum of Understanding (MOU) exists.

Information provided by OGDs or other Agencies such as the police in relation to pre-surveillance activity can be accepted and included in the risk assessment. Pre-surveillance visits do not require an authorisation under Regulation of Investigatory Powers Act (RIPA) 2000 or Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) 2000.

The visit will involve a survey of the area to assess collateral intrusion, operational or personal risks and any particular sensitivity in the local community where surveillance will take place. Details of the visit must be recorded in the official notebook with relevant information recorded on FRAIMS.

[Redacted]

[Redacted]

If a surveillance officer needs to identify an individual before commencing surveillance, this can be covered by a PSRA. This must not involve calling the individual to the office for the express purpose of identifying them. Under no circumstances must photographs of the individual be taken as part of pre-surveillance activity.

For example, a surveillance officer intends to identify an individual when they next attend the Jobcentre or Local Authority (LA) before commencing surveillance. This is not classed as surveillance. If the intention is to perform surveillance as soon as the individual leaves the premises, prior authorisation must have been obtained. Prior authorisation would allow for photographic evidence to be obtained, collateral intrusion must be taken into account.

The surveillance officer completing the PSRA should make a note of their findings in their notebook (N1) within a reasonable time of the [PSRA \(link is external\)](#).

The surveillance operatives must complete the [RIP1 \(link is external\)](#) application form and forward the form to the countersigning manager. Once the [RIP1 \(link is external\)](#) is agreed it should be forwarded to the Authorising Officer via the CAB promptly. This will ensure that the information on the application form reflects the most up to date position. Any delays and their subsequent impact on surveillance location suitability, along with any collateral intrusion risks must be considered and explained.

Because of the delay between the initial pre-surveillance check and surveillance officers re-visiting the plot to conduct surveillance, officers must always be prepared to conduct a dynamic risk assessment to take into account changes to the environment. For example, temporary road works may now be in place, which may require an alternative approach to plotting.

## 06 Applying for directed surveillance authorisation

### Authorisations

Directed surveillance will form the bulk of Department for Work and Pensions (DWP) and Local Authority (LA) surveillance and authorisation is required, see Chapter 5 of the [Surveillance Code Of Practice \(link is external\)](#).

Before authorisation for surveillance is sought, other less intrusive means of obtaining the necessary information must be considered. For example, benefit computer systems, information available from Other Government Departments (OGDs) subject to exchange of information restrictions or use of Social Security Fraud Act (SSFA) 2001 powers, if considered the most effective and least intrusive.

For LAs in Scotland the equivalent part of Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) 2000 Surveillance Code Of Practice is Chapter 5.

An authorisation is required before directed surveillance activity can be carried out and ensures that the safeguards required are considered. Properly authorised surveillance is defensible in law. The Authorising Officer normally gives authorisations in writing.

Report an activity, which has not properly been authorised to the Chief Surveillance Commissioner, in writing, as soon as the error is recognised. An initial email alerting the Investigatory Powers Commissioners Office (IPCO) should be followed by a report detailing the circumstances and remedial action submitted by the Chief Officer or Senior Responsible Officer. This does not apply to covert activity which is deliberately not authorised because an authorising officer considers that it does not meet the legislative criteria, but allows it to continue.

It does include activity which should have been authorised but wasn't or which was conducted beyond the directions provided by an authorising officer. All activity, which should have been authorised but was not should be recorded and reported to the Inspector or Inspectors at the commencement of an inspection.

### Authorisations in joint working cases with Local Authorities

When directed covert surveillance is required in a joint working case with a Local Authority (LA) where Housing Benefit (HB) is being investigated, only one authorisation to include both organisations is required.

In England and Wales, if the LA is leading in the surveillance operation, the LA will arrange authorisation for both organisations but are required to apply to a magistrate for an order under section 32A, inserted by section 38 of the Protection of Freedoms Act 2012.

DWP do not require judicial approval as section 32A of Regulation of Investigatory Powers Act (RIPA) does not apply to DWP authorisations.

Judicial approval is not required by LAs in Scotland using RIP(S)A as these provisions do not apply to RIPA(S)A. This means that an LA Manager can authorise surveillance for both organisations in Scotland.

If DWP are leading in the surveillance operation, DWP will authorise the directed covert surveillance. This applies in England, Wales and Scotland.

## Subjects of surveillance

Depending on the type of investigation, authorisations may be requested for one or more subjects of surveillance and for different locations. It is important that the authorisation covers the subjects identified on the application form whether by name or, if the name is not known, the exact or approximate number of subjects or unidentified subjects involved or who may become involved and specific locations if known depending on the nature of the offence being investigated.

It is acceptable to include the phrase 'alleged to be' in relation to the subject.

In cases where the subject's identity is not known, include any available additional information about the subjects to help the Authorising Officer decide if surveillance is appropriate, for example, any available descriptions of subjects to distinguish between subject one and subject two.

If the subject is later identified and named, a [RIP4 \(link is external\)](#) will need to be completed within three working days detailing the new information. Further clarification on RIP4 completion can be found in [Surveillance Reviews](#).

If additional or new subjects or specific locations within the operation or investigation are subsequently identified, which were not covered on the initial [RIP1 \(link is external\)](#), further authorisation to conduct surveillance will be required. New individuals or specific locations must not be added to the original authorisation retrospectively.

The additional subjects or specific locations will not have been subject to formal authorisation by the Authorising Officer, therefore a new [RIP1 \(link is external\)](#) will need to be submitted for authorisation to cover new subjects or specific locations identified.

Observations can be conducted on people who are not in receipt of benefit, such as the partner in a Living Together As a Married Couple (LTAMC) allegation or query, providing that the relevance of such action to the investigation can be demonstrated in the application for surveillance. In LTAMC cases, the subjects of the surveillance application are likely to be the benefit claimant and the suspected partner.

## Number of officers deployed

One authorisation will cover the **maximum** number of officers to be deployed at any one time as recorded in section 3 of the [RIP1 \(link is external\)](#). The number of officers must be proportionate to the offence being investigated or to achieve the outcome of the surveillance. Each case must be considered on its individual merits.

It should be noted that the example given is not necessarily indicative or prescriptive of the number of officers to be deployed. In similar circumstances, it may be proportionate to deploy more officers. For example, a team of six officers may be required to conduct surveillance on a collusive employer with two officers deployed at any one time.

Surveillance will be carried out by two operatives which will also address corroboration issues in Scotland.

If an officer who commenced the investigation is no longer involved for any reason, the other officers and/or replacement officers working on that case would not require further authorisation.

## **Use of radios and surveillance equipment**

The procedures detailed in [Radio Procedures](#) should be followed if it is intended to loan radio equipment to a partner organisation during the course of joint working. The recipient of the equipment should be briefed on the Code Of Practice and informed of the requirement to comply with its provisions including use of correct communication protocols prior to the equipment being issued.

## **Purchasing items**

Purchasing items is classed as covert surveillance even though the surveillance operative comes face to face with the subject. This is because the act of purchasing an item is carried out in a manner calculated to ensure that the person subject to surveillance is unaware that it is or may be taking place.

Where the object of purchasing an item is to simply obtain evidence of employment no authorisation is required. This is because the purchasing takes place in a public place and no private information is obtained, and there is no intention to ask further questions or establish a relationship to elicit further information which may be regarded as private. However, if it is intended to purchase items on a number of different occasions the activity will be directed surveillance and authorisation will be required. See examples below.

Any conversation with the suspect must be restricted to normal general conversation a claimant would have with a vendor. The purpose of the purchase is to confirm that the suspect is indeed selling either items or a service. It is not to try and obtain information about any other clients from the vendor or any other private information. This would have to be obtained by other means or by questioning at any interview that is being considered with the suspect.

### **Authorisation not required**

A suspect allegedly works as a shop assistant. Activity should be restricted to purchasing an item and then to leave the premises. A systematic approach to obtaining evidence over a period of time, at different times of the day, is not appropriate and therefore must not be applied.

### **Authorisation required**

Where a suspect works in a bar and a drink is purchased the likelihood is that surveillance will take place while the drink is consumed. The purchasing activity in this instance will form part of directed surveillance and therefore must be included as an authorised activity.

If surveillance activity is required in addition to purchasing an item it is good practice to include the purchasing activity in the surveillance authorisation even if it is intended to make only one purchase.

## **Covert internet investigations – e-trading**

[Redacted]

## **Obtaining written authorisation - RIP1 application**

These instructions work alongside [FRAIMS Guidance - RIP1 applications \(link is external\)](#).

Before directed surveillance can be carried out, the investigator and referring Team Leader must follow the agreed process for a referral to the surveillance team to enable surveillance to be carried out within Counter Fraud and Compliance Directorate (CFCD).

If the case has been successful and is accepted into the surveillance teams tasking and co-ordination of surveillance activity.

The Surveillance Team/Tasking Manager will:

- Conduct a full review of the referral/case
- Task a pre-surveillance risk assessment and any pre-surveillance activities
- completion of Complete an application for authorisation to use surveillance on the [RIP1 \(link is external\)](#)
- Countersign the request and record the request on FRAIMS
- Assign the Covert Authorities Bureau (CAB) to the case on FRAIMS for consideration and forward the RIP1 for a decision.

The RIP1 must be completed electronically by the surveillance operative and examined by the Tasking Manager. Their internal email address must be used in place of a signature.

The Tasking Manager must give consideration to the completed RIP1 by ensuring the request is reasonable, proportionate and that resource availability to conduct all proposed activity is taken into account. They must also verify the intelligence and confirm the application is of suitable quality to proceed, this consideration must be reflected in the Counter Signing Officer section of the RIP1. Once completed, the RIP1 must be forwarded by email to CAB.

## Central Authorisation Bureau considerations

The Covert Authorities Bureau (CAB) has been created following recommendations from the Investigatory Powers Commissioners Office (IPCO) and mirrors other organisations who conduct surveillance, such as the police, the National Crime Agency (NCA) and Her Majesty's Revenue and Customs (HMRC).

CAB will ensure:

- the request complies with the Regulation of Investigatory Powers Act (RIPA) 2000
- the application aligns with IPCO guidance
- it follows the Home Office Code of Practice
- the Counter Fraud and Compliance Directorate (CFCD) Standard Operating Approach has been followed to confirm surveillance is necessary
- the intended surveillance is proportionate
- collateral intrusion is considered and mitigations are proposed to minimise
- Fraud Referral and Intervention Management System (FRAIMS) processes are recorded correctly

There may be occasions when the CAB will contact the Tasking Manager by telephone to discuss what has been applied for, seek clarification to make any minor alterations, for example, spelling or grammar, or to return the application to be amended.

The CAB will only make minor changes with the agreement of the Tasking Manager, for any other changes the application will be returned for amendment.

CAB will forward the application to the Authorising Officer when satisfied that the application conforms to the:

- RIPA [legislation \(link is external\)](#)
- RIPA [codes of practice \(link is external\)](#)
- IPCO [guidance and procedures \(link is external\)](#).

If the Authorising Officer requires further information or clarification they will liaise with, and may return, the application to CAB.



The CAB give consideration to necessity, proportionality and collateral intrusion to ensure that the application should be considered for approval but they do not make decision on whether an application will, or will not, be approved, that is for the Authorising Officer to decide.

## **Authorisation Officer considerations**

The Authorising Officer must consider whether the information provided on the [RIP1 \(link is external\)](#) application is sufficient to meet the criteria for approval and record their comments in section 13 and 14 of the [RIP1 \(link is external\)](#).

It is important that the Authorising Officer describes and specifies the activity being authorised. This may or may not be the same as requested by the applicant. The Authorising Officer should as a matter of routine state explicitly and in their own words what is being authorised and against which subjects, property or location.

## **Authorisation different from application**

If an application fails to include an element in the proposed activity which in the opinion of the Authorising Officer should have been included or which is subsequently requested orally by the Tasking Manager, prior to authorisation, it may be included in the authorisation and if so a note should be added explaining why.

If the Authorising Officer thinks an element is missing they should always discuss it with the Tasking Manager prior to including it in the authorisation.

The level of activity requested can be restricted if the Authorising Officer does not consider any particular aspect of the request to be proportionate or necessary with a note being added explaining why. Restrictions should not include the time each period of surveillance lasts.

### **Example 1**

- Section 3 of the [RIP1 \(link is external\)](#) records that the intention is to conduct static observations at the subject's home address in the morning and the evening with the use of a Digital Versatile Disc (DVD) recorder in relation to a 'Living Together' allegation or query
- In section 13 of the RIP1, the Authorising Officer specifies that they will authorise static surveillance, at which location, and whether or not a video can be used, but should not place restrictions on the individual periods of surveillance, by stating that they should last for a specific period of time

### **Example 2**

- Section 3 of the [RIP1 \(link is external\)](#) records that the intention is to conduct static surveillance at the subject's home address at specified times in the morning in relation to a 'working and signing' allegation. Mobile surveillance is also necessary to the investigation but has not been recorded in the RIP1. The Task Manager realises that this has been omitted and contacts the Authorising Officer prior to authorisation and requests that mobile surveillance be included
- The Authorising Officer agrees that mobile surveillance is also required for the particular case and includes the activity in his authorisation including a note with the details of the conversation with the Tasking Manager

### **Example 3**

- Section 3 of the [RIP1 \(link is external\)](#) records that the intention is to conduct static surveillance at the subject's home address at specified times in the morning in relation to a 'working and signing' allegation. Mobile surveillance is also necessary to the investigation but has not been recorded in the [RIP1 \(link is external\)](#)
- The Authorising Officer decides that mobile surveillance is also required for the particular case but cannot specifically authorise it, as the Tasking Manager has not applied for this on the application
- The Authorising Officer may contact the Tasking Manager by telephone or in person and discuss the need for mobile surveillance. If the Tasking Manager agrees there is a need, the Authorising Officer can authorise mobile surveillance by including details of the conversation with the Tasking Manager. Alternatively, the Authorising Officer can return the



RIP1, via the CAB having only authorised that requested at section 3, or for the additional activity to be included, or refuse the application. Authorising Officers will be required to familiarise themselves with the capabilities of surveillance equipment used in their region, as they may be required to restrict the use of specified items of equipment. For example, a zoom lens fitted to a camera during observations being conducted on a claimant's home address may have the power to obtain detailed images of inside the house, which may be considered as intrusive surveillance.

Additionally, specified equipment may not be powerful enough to produce images of sufficient quality due to the distance between an identified surveillance point and a claimant's home address.

The Authorising Officer then completes sections 13 and 14 of the RIP1 to authorise or refuse surveillance. In order to protect the application from unnecessary disclosure the Authorising Officer should state in their authorisation the names of the subjects where known, locations, equipment and any other parameters set. When the form has been completed electronically, the Authorising Officer should enter their internal e-mail address instead of their signature.

Details of their involvement and why they are involved in the investigation must be included for the attention of a Commissioner or Inspector during their next inspection. This is in accordance with paragraph 5.7 of the Regulation of Investigatory Powers Act Code Of Practice (RIPA COP).

The Authorising Officer's decision on the application for surveillance should be made within **five working days**, from the receipt of the application and then returned to the Tasking Manager promptly. Where a decision cannot be made within five days the details as to why there is a delay must be documented in section 14 of the RIP1. Details of the Authorising Officer's decision to authorise the application must also be completed in the FRAIMS Case Surveillance view.

Where the Authorising Officer requires further information/clarification relating to the application the final decision must be made within **ten working days**, from the date the Authorising Officer first received the RIP1, to ensure that there is no undue delay in dealing with the investigation.

When the Authorising Officer returns the RIP1 for more information, the FRAIMS Case Surveillance view must be updated.

## **Time limit on written authorisation**

A written authorisation is valid for three months from the date it is signed and must be reviewed regularly.

For further information, see [Surveillance Reviews](#).

## **Notifying the applicant of the authorisation**

Once the Authorising Officer has agreed that surveillance is appropriate they must complete the [RIP1 \(link is external\)](#) to the relevant [FRAIMS activity \(link is external\)](#). The [RIP1 \(link is external\)](#) will then be locked down and cannot be amended. All other electronic copies, for example, e-mail versions should be deleted. The Tasking Manager must also be advised that the [RIP1 \(link is external\)](#) has been authorised.

On receiving authorisation the Surveillance Team must should commence surveillance within ten working days of the authorisation being given. In exceptional circumstances, where surveillance cannot commence within this timescale, the reasons must be documented by the Tasking Manager on FRAIMS in the more information screen of the resolution field to demonstrate there has not been an unreasonable delay and that surveillance is still necessary.

## **Notifying the applicant of the refusal**

If the Authorising Officer decides that surveillance cannot be authorised, they will record the reasons for their decision in sections 13 and 14 of the [RIP1 \(link is external\)](#). A continuation sheet can be used if there is insufficient space when completing this section clerically. The

continuation sheet must be cross-referenced with the 'Unique Reference Number' in case the sheet and the [RIP1 \(link is external\)](#) become separated.

The Authorising Officer must record this by updating the activity received and by recording the decision in the Case Surveillance view of FRAIMS.

Further information can be found in [Retention and destruction of RIP forms](#).

The Authorising Officer will assign the originating Task Manager to the case with the decision to reject the application.

## Keeping records

In England and Wales, the Criminal Procedure and Investigations Act (CPIA) 1996 requires surveillance operatives and Authorising Officers to keep full and accurate records of investigations. In Scotland although CPIA 1996 does not apply, full and accurate records must also be kept in Scottish investigations. Electronic records of authorisations must be held by each Authorising Officer and regularly updated whenever an authorisation is granted, refused, reviewed, renewed or cancelled.

Chapter 8 of the Surveillance Code Of Practice (Surveillance COP), reinforced by the Investigatory Powers Commissioners Office (IPCO) puts a requirement on public authorities to hold a centrally retrievable record of all authorisations. For Department for Work and Pensions (DWP), this means the information is recorded on Fraud Referral and Intervention Management System (FRAIMS).

For Local Authorities (LAs), it is recommended as good practice that Control Matrices are collated centrally within the organisation and held by the Regulation of Investigatory Powers Act (RIPA) Co-ordinator. The central record should be highlighted when the Authorising Officer is directly involved, in the surveillance operation.

Chapter 8 of the Surveillance COP also requires that a unique reference number for each investigation and operation is created. The definition of a unique reference number has been clarified by the IPCO as being one that can identify individual authorisations of directed surveillance. To accommodate this requirement it is necessary to add an extra marking to the end of the operation reference number to denote which surveillance authorisation the application is for.

The equivalent of Surveillance COP chapter 8 for LAs in Scotland, is RIP(S)A 2000 Surveillance COP paragraph 3.14. For example, F01015/03/A (RIP) in the first column of the Authorisation Control matrix would be the first application for surveillance on that particular case.

If it is decided that another application needs to be made this would be shown as F01015/03/B (RIP). Further applications would be shown as C, D, E, and so on. This would only apply to a completely separate application not on an application that has been returned by the Authorising Officer because more information is required.

For DWP a report will be extracted from FRAIMS that will show the status of surveillance activity. For LAs, it is also recommended that the Authorisation Control Matrix is set up as a spreadsheet to enable Authorising Officers to provide monthly updates of surveillance activity to the central point within the Region or LA RIPA Co-ordinator. This ensures that a central database is maintained.

## Retention and destruction of RIP forms

Authorisations of applications [RIP1 \(link is external\)](#), renewals [RIP2 \(link is external\)](#), cancellations [RIP3 \(link is external\)](#) and reviews [RIP4 \(link is external\)](#), attached to the Surveillance activity will be retained on FRAIMS for a minimum of three years from the date recorded in the Case Surveillance 'Date Authorised' field completed when the Authorising Officer approved the surveillance cancellation.

Applications that are refused must be attached to the Surveillance activity and will be retained on FRAIMS for a minimum of three years. This is in accordance with paragraph 8.2

of the Surveillance COP. If the case also results in a prosecution, be aware of the requirements of the CPIA 1996.

Any other versions of the RIP1 held clerically or electronically, must be destroyed securely or deleted from the electronic file when all FRAIMS actions to authorise or reject the applications have been completed.

For more information on FRAIMS deletion periods, see [FRAIMS guidance - Deletion Periods](#).

## 07 Cancellation of Surveillance

### Cancellations

Read these instructions along side Fraud Referral and Intervention Management System (FRAIMS) instructions – [05 RIP3 Cancellations \(link is external\)](#).

The Authorising Officer must ensure that every authorisation for surveillance is cancelled before the end of the period of authorisation. Do not let the Authorisation expire.

The [RIP3 \(link is external\)](#), Cancellation of Surveillance, is used to cancel the authorisation for surveillance:

- when the Authorising Officer is satisfied that surveillance no longer meets the criteria for authorisation or
- as soon as surveillance is no longer required by the applicant

If the Authorising Officer initiates the cancellation of surveillance they will:

- contact the Counter Fraud and Compliance (CFC) Surveillance team to obtain the date of the last observation and verbally confirm that surveillance authorisation is no longer appropriate
- complete a RIP3 immediately, signing it on the day verbal cancellation is given, and send a copy of the RIP3 on the same day to the Tasking Manager

There is no requirement for the Tasking Manager to sign the RIP3 in these circumstances.

The Authorising Officer retains the original RIP3 electronically.

If it is decided there is no longer a need to continue with surveillance because the objective of surveillance has been achieved, or following initial observations it is established that further surveillance will not achieve the objective, action to cancel the surveillance application must be undertaken as soon as practicable after the last observation.

The Surveillance Operative completes the RIP3 up to and including section 2. Ensure that the date and time of the last observation is recorded in section 1.

Send the RIP3 electronically to the Tasking Manager to countersign.

The Tasking Manager forwards the partially completed RIP3 by e-mail to the Central Authorisation Bureau (CAB): **[Redacted]**.

CAB will review the form to ensure compliance with:

- Regulation of Investigatory Practice (RIPA) legislation and Codes of Practice
- Investigatory Powers Commissioners Office (IPCO) guidance and procedures and
- FRAIMS process

Following their checks CAB will forward the RIP3 to the Authorising Officer.

The Authorising Officer will formally authorise the cancellation for the directed surveillance. The date recorded in part 4 of the RIP3 is the actual date the Authorising Officer signs the form authorising the cancellation.

Continue with the next appropriate course of action relevant to the investigation.

Where equipment has been utilised as part of a surveillance operation it must be clear on the RIP3 that the equipment or operation has been closed down. For example, if CFCD has

installed their own cameras at an external location; it must be clear on the RIP3 that they were removed prior to the cancellation of surveillance.

After examining the RIP3, details of the surveillance activity and considering the application, the Authorising Officer must consider whether to authorise or reject the application to cancel the authorisation and record this by updating the activity received on FRAIMS, attaching the completed RIP3 to the same activity and by recording the decision in the Case Surveillance view on FRAIMS. They will then associate the Tasking manager and the FRAIMS activity to notify them of the action.

## 08 Surveillance Reviews

### Review action

These instructions should be used along side [FRAIMS instructions – 04 RIP2 Renewals and RIP4 Reviews \(link is external\)](#).

Regular reviews of authorisations must be conducted to assess the need for surveillance to continue. The Authorising Officer is responsible for the determination of the frequency of the reviews.

The review must take place at intervals not longer than one month, but depending on the circumstances of the case, the review can be conducted more frequently. It is expected that in addition to the formal review points, the surveillance Tasking Manager and the surveillance operatives will conduct weekly reviews of the on-going surveillance cases. This must be considered where:

- the surveillance is likely to obtain the necessary information in a short period of time and must be cancelled as soon as possible, in order to avoid breaching proportionality
- there is a change of circumstances involving the case under investigation

### Automatically set reviews

When the surveillance application is authorised, FRAIMS sets review dates at four, eight and thirteen week intervals from the date of the authorisation. On the maturity of the review, and where the application has not already been cancelled, an activity is automatically sent to the case owner. This activity will display in the case owner's 'My Activities' screen.

### Out of cycle review

Where an Authorising Officer has decided that a review is required outside the standard four, eight or thirteen week review periods, and has set a 'Due Date', an activity will display in the Authorising Officer's 'My Activities', when the due date is reached. This review will not display in the FRAIMS user's 'My Activities'.

On receipt of the activity the Authorising Officer notifies the investigator of the review, by creating a new activity. This is carried out in the same way as detailed within [FRAIMS instructions - Review not taken place – Authorising Manager Action \(link is external\)](#).

If the Authorising Officer decides to cancel the surveillance, they must complete a [RIP3 \(link is external\)](#) and create an activity and attach to FRAIMS to notify the investigator that the surveillance must be cancelled.

The Authorising Officer will consider if surveillance is still proportionate and necessary in light of the changes. If the Authorising Officer decides surveillance is no longer appropriate they will complete a [RIP3 \(link is external\)](#) form and send a copy urgently to the surveillance Tasking Manager. The copy must be placed on the file. The Authorising Officer will hold the original [RIP3 \(link is external\)](#) form.

The Authorising Officer may wish to amend the review date following the out of cycle review. However, remember that the review cannot be longer than one month from the date of the previous review.

### Weekly review by the Authorising Officer

The Authorising Officer monitors surveillance requests on a weekly basis, to check whether the surveillance has exceeded their four, eight or thirteen week review dates.

The Authorising Officer initiates a query to find the activities that relate to the authorisation of the surveillance requests. This query is initiated in the 'My Activities' view using the 'Authorisation Date' field. Before running the query, the Authorisation Officer must calculate the appropriate date. This is always the authorisation date plus four, eight or thirteen weeks. If the review has taken place, within the correct timescales, there is no further action to take.

It is not necessary for the same Authorising Officer to review the case as the person who authorised it if, for example, the original Authorising Officer is not at work and the nominated officer has access to the Authorising Officers activities. Where, however, the Authorising Officer is on leave the review date should be adjusted accordingly rather than have someone else undertake the review.

### **Thirteen week review**

The authority to conduct surveillance expires three months after the approval date. Thirteen weeks after the approval date an activity is automatically created for the case owner. On receipt of this activity, complete a [RIP1 \(link is external\)](#) and/or [RIP3 \(link is external\)](#). A [RIP1 \(link is external\)](#) form and/or [RIP3 \(link is external\)](#) form is completed for each case selected where surveillance is required.

### **Identifying the surveillance review activity**

When the review is displayed as an activity assigned to the surveillance operative, the new activity will be displayed in 'My Activities' screen. To assist in the identification of the surveillance activities received, refer to the table in the [FRAIMS instructions - Surveillance Reviews – Identifying the surveillance review activity \(link is external\)](#).

The review process will provide a summary of the progress made towards the original objectives. Therefore, the surveillance Tasking Manager and the surveillance operative will need to discuss:

- whether surveillance is to continue
- surveillance work undertaken so far
- what has been achieved
- reason(s) for failure to obtain results, if applicable
- an update of operational objectives and plan of action

### **Review not taken place – Authorising Officer action**

If the review has not taken place, the Authorising Manager must notify the investigator by creating an activity, see [FRAIMS instructions - Surveillance reviews – Review not taken place – Authorising Manager Action \(link is external\)](#).

### **Action on receipt of the review activity – surveillance operative action**

On receipt of the activity, the surveillance status must be reviewed. The surveillance operative must complete and send a [RIP4 \(link is external\)](#) to the Tasking Manager. If it is considered that no further surveillance is required a [RIP3 \(link is external\)](#) should be completed.

A review [RIP4](#) is completed for each case selected. Where a review of the surveillance authorisation is required, the actions to record the review application must be recorded on Fraud Referral and Intervention Management System (FRAIMS). Regulation of Investigatory Powers (RIP) forms must be completed and e-mailed to the surveillance Tasking Manager and Authorising Officers.

For details on recording the [RIP3 \(link is external\)](#) and [RIP4](#) activity on FRAIMS, see FRAIMS instructions:

- [04 RIP2 Renewals and RIP4 Reviews \(link is external\)](#)
- [05 RIP3 Cancellations \(link is external\)](#)

Surveillance can continue pending the review process taking place.



## Action on receipt of the review activity – Tasking Manager action

After examining the RIP4 and considering the details of the review, the Tasking Manager must consider whether the application has been completed correctly and appropriately and record this by updating the activity received and by recording their decision on FRAIMS via the 'Cases – Case Surveillance' view.

Details of the Tasking Manager decision to recommend the review application must also be completed in the 'Cases – Case Surveillance' view.

Where the decision is to recommend the review application, the Tasking Manager will assign the Central Authorisation Bureau (CAB) inbox to the Case Surveillance Activity and Team Inbox.

E-mail the RIP4 to the CAB e-mail inbox: **[Redacted]**  
Change the investigator activity in Case Activities to 'Done'

If the Tasking Manager rejects the application for review of surveillance or returns it for more information the 'Cases – Case Surveillance' view must also be updated.

For further information about the actions to be taken on FRAIMS, see [FRAIMS instructions - 04 RIP2 and RIP4 - Approving Officer actions \(link is external\)](#).

## Central Authorisation Bureau considerations

The Central Authorisation Bureau (CAB) will review the application and forward it to the Authorising Officer when satisfied that the application conforms to the:

- Regulation of Investigatory Powers Act (RIPA) legislation
- RIPA codes of practice
- Investigatory Powers Commissioners Office (IPCO) guidance and procedures
- Fraud Referral and Instructions Management System (FRAIMS) process

### Authorising Officers action

After examining the [RIP4](#) and considering the application, the Authorising Officer must consider whether to authorise or reject the review application and record this by updating the activity received and by recording the decision in the 'Cases – Case Surveillance' view. Authorising the review enables the surveillance to continue, rejecting the review means that the surveillance must stop. The decision is forwarded to the Tasking Manager and the [RIP4](#) is attached as a word document.

#### Authorising the review

Details of the Authorising Officers decision to authorise the review application must also be completed in the 'Cases – Case Surveillance' view, see [FRAIMS guidance – 04 RIP2 or RIP4 approved \(link is external\)](#).

#### Rejecting the review

When the Authorising Officer rejects the review application or returns it for more information, the 'Cases – Case Surveillance' view must also be updated, see [FRAIMS guidance – 04 RIP2 or 4 Rejected \(link is external\)](#).

The Authorising Officer may wish to contact the Counter Fraud and Compliance (CFC) team to confirm the date of the last surveillance and verbally inform that surveillance authorisation is no longer appropriate.

On receipt of a rejected review the Surveillance Operative must immediately stop any surveillance activity and complete a [RIP3 \(link is external\)](#) cancelling the surveillance application, see [FRAIMS guidance – 05 RIP3 Cancellations \(link is external\)](#).

## Change of circumstances

When a change of circumstances occurs, the surveillance operative must:

- complete the [RIP4 \(link is external\)](#) within three working days of the change occurring/notified to the investigator. The details of the change of circumstances and the impact on the surveillance being performed must be shown in sections 3 – 6
- pass the completed form to the Tasking Manager

### Unknown subjects

It is acceptable to authorise surveillance against a group or entity involving more than one individual, for example, an organised criminal group where only some identities are known, if it is possible to link the individual to the common criminal purpose being investigated and the details are noted in section 4 of the [RIP1 \(link is external\)](#). It is essential to make explicit the reasons why it is necessary and proportionate to include persons, vehicles or other details that are unknown at the time of authorisation but once identified they should be added at review.

Once an individual is identified their name and, if name not known, a description of the person should be recorded on a RIP4 and sent to the Authorising Officer within five working days.

## 09 Surveillance renewals

### Renewals

A renewal application must be made and authorised before the earlier authorisation expires. A request for a renewal authorisation of surveillance can be made no earlier than ten working days before the expiry of the [RIP1 \(link is external\)](#) authorisation or previous renewal authorisation.

Where a request for renewal is made before the existing authorisation expires, the renewal becomes effective on the expiry date.

On receipt of this activity, the surveillance status must be renewed on [RIP2 \(link is external\)](#) completed by the Surveillance Operative and sent to the Tasking Manager. If it is considered that surveillance is no longer required a [RIP3 \(link is external\)](#) should be completed.

A renewal application is not appropriate if the earlier authorisation has already expired. In these circumstances, the [RIP1 \(link is external\)](#) must be completed. The expired authorisation must be formally cancelled by completing the [RIP3 \(link is external\)](#).

A renewal authorisation of surveillance will last for three months and must be reviewed at least monthly.

Where renewal is required, Regulation of Investigatory Powers (RIP) forms must be completed and e-mailed to Tasking Manager and Authorising Officers and details recorded on Fraud Referral and Intervention Management System (FRAIMS).

### Renewal action

This guidance must be read in conjunction with [FRAIMS Guidance – 04 RIP2 Renewal and RIP4 Review applications \(link is external\)](#).

If a renewal of authorisation is required, the applicant must:

1. complete the [RIP2 \(link is external\)](#), Surveillance Renewal form, through the Case Surveillance tab
2. change 'Status' to 'Submit'
3. assign the activity to the Tasking Manager advising that the [RIP2](#) has been sent
4. e-mail the [RIP2](#) to the Tasking Manager for approval
5. e-mail the completed RIP2 to the Tasking Manager for approval

### Tasking Manager action

After examining the [RIP2](#) and considering the details of the renewal, the Tasking Manager must consider whether the application has been completed correctly and appropriately and



record this by updating the activity received and recording their decision in the Surveillance view.

Details of the Tasking Manager decision to recommend the renewal application must also be completed in the Case Surveillance view.

Where the decision is to recommend the renewal application the Team Leader (TL) or Higher Investigation Leader (HIL) will assign the Covert Authorities Bureau (CAB) Inbox to the Case Surveillance Activity and Team box.

E-mail the [RIP2](#) to the CAB inbox: **[Redacted]**.

Change investigator activity in Case Activities to 'Done'.

If the Tasking Manager rejects the application for renewal of surveillance or returns it for more information, update the Case Surveillance view.

If the Tasking Manager has rejected the application for renewal the Surveillance officer must complete a [RIP3 \(link is external\)](#) to cancel the existing authorisation and notify the investigator, TL or HIL to continue with the investigation if appropriate using other means.

If the form has been returned because further information has been requested the Surveillance officer should provide the additional information on the RIP2 and resubmit the form to the Tasking Manager for consideration. Alternatively the Tasking Manager can make any necessary amendments to the RIP2 following discussion with the Surveillance Operative.

For further instructions on the actions to be taken on FRAIMS, see [FRAIMS instructions – 04 RIP2 and RIP4 - Approving Officer actions \(link is external\)](#)

## Covert Authorities Bureau considerations

The Covert Authorities Bureau (CAB) will review the application and forward it to the Authorising Officer when satisfied that the application conforms to the:

- Regulation of Investigatory Powers Act (RIPA) legislation
- RIPA codes of practice
- Investigatory Powers Commissioners Office (IPCO guidance and procedures
- Fraud Referral and Intervention Management System (FRAIMS) process

### Authorising Officers action

After examining the [RIP2](#) and considering the application, the Authorising Officer must consider whether to authorise or reject the renewal application and record this by updating the activity received and by recording the decision in the Case Surveillance view.

Authorising the renewal enables the surveillance to continue, rejecting the renewal means that the surveillance must stop. The decision is sent to the Task Manager and the [RIP2](#) is attached as a word document.

#### Authorising the renewal

Details of the Authorising Officers decision to authorise the renewal application must also be completed in the 'Cases – Case Surveillance' view, see [FRAIMS instructions – 04 RIP2 or RIP4 approved \(link is external\)](#).

The Authorising Officers will consider the information on the [RIP2](#) and record their comments in section 8. The Authorising Officer then completes section 9 of the form to authorise or refuse authorisation.

The Authorising Officer who authorised the original application may not be the person who authorised the renewal.

#### Rejecting the renewal

When the Authorising Officer rejects the renewal application or returns it for more information, the 'Cases – Case Surveillance' view must also be updated.

If the Authorising Officer decides that renewal of surveillance cannot be authorised, they will record the reasons for their decision in the 'Authorising Officer's Comments' section on the

**RIP2.** The Authorising Officer will delete the authorisation declaration on the form and complete the rest of the section.

The Authorising Officer may wish to contact the Counter Fraud and Compliance (CFC) Surveillance Team to obtain the date of the last surveillance and verbally confirm that surveillance authorisation is no longer appropriate.

On receipt of a rejected renewal the Surveillance Operative must immediately stop any surveillance activity and complete a **RIP3** ([link is external](#)) cancelling the surveillance application.

The Authorising Officer who authorised the original application may not be the person who authorised the renewal.

## 10 Urgent authorisations

### Urgent oral authorisations

Authorisation for surveillance must be given in writing. In urgent cases, [oral authorisation](#) ([link is external](#)) may be given but only by an Authorising Officer. If immediate surveillance is required, urgent authorisation must be sought. Details of the urgent oral request must be recorded in the official notebook and RIP1 form completed within 72 hours of the oral authorisation being given.

When using the urgency provisions a record that the authorising officer has expressly authorised the action should be recorded in writing by both the authorising officer and the applicant as soon as is reasonably practicable

Oral authorisation can be used when an immediate response to an event is required. For example, for events that are not likely to occur again during the course of the investigation and there is insufficient time to obtain written authorisation. An oral authorisation is not a replacement for properly planning and obtaining written authorisation to conduct surveillance.

A case is to be regarded as urgent if the time that would elapse before the authorisation officer was available to grant the authorisation would, in the judgement of the person giving the authorisation, be likely to jeopardise the investigation or operation for which oral authorisation is being sought. It is expected that Urgent Oral Authorisations will be exceptional within Department for Work and Pensions (DWP).

### Authorising Urgent oral applications

If the usual Authorising Officer is not available, **another Authorising Officer** within the Region must be contacted.

In Department for Work and Pensions (DWP), if no other Authorising Officer is available, the next step is to contact the (AFI) National Leader (Band F), who is responsible for CAB, and seek their agreement for urgent oral authorisation. Counter Fraud and Compliance Directorate (CFCD) is deemed as a single region for the purposes of surveillance.

For Local Authorities (LAs) the designation of a Regulation of Investigatory Powers Act (RIPA) Co-ordinator and Authorising Officer must be adequately recorded and set out who has authorising responsibilities and the level of authorisation they may give. If no Authorising Officer is available, Statutory Instrument (SI) 2010 No 521 (in Scotland, Regulation of Investigatory Powers (Scotland) Act (RIP(S)A) SI 2000 No. 343) states that all officers of a more senior grade, rank or position within that authority are also prescribed. These officers should be contacted and their agreement for urgent oral authorisation sought.

### Time limit on urgent oral authorisation

Oral authorisation will, unless renewed, cease to have effect after 72 hours beginning from the time it was given by the Authorising Officer and is subject to review in the same way as

all other authorisations. The Surveillance officer must note details of the oral authorisation in their official notebook including the name of the Authorising Officer, date and time.

In Department for Work and Pensions (DWP), the Authorising Officer must also make a note of the authorisation in their official notebook and on FRAIMS, see [FRAIMS guidance – 02 Urgent Oral Authorisations \(link is external\)](#).

The Authorising Officer must ensure that a [RIP1 \(link is external\)](#) is received from the investigator and authorised to cover the urgent surveillance. The RIP1 should be completed by copying the contemporaneous notes precisely and not refer to the application or decision in the past tense.

Within the 72-hour period, the investigator must:

1. complete form [RIP1](#) sections 1 to 11
2. include details in section 7 of why case is so urgent that an oral rather than written authorisation is required
3. pass the completed form to the Tasking Manager for checking and countersigning
4. forward the [RIP1](#) (and file if requested) to the Authorising Officer who originally approved the urgent request

If surveillance authorisation is required beyond the 72 hour limit, the applicant must detail the reasons for continuing surveillance in section 3 of form [RIP1](#).

The usual Authorising Officer will authorise the urgent oral application by completing section 13 of form [RIP1](#) stating that the authorisation is for a maximum of 72 hours. The Authorising Officer must also complete section 17 with the reasons why the case was so urgent that an oral rather than written authorisation was required.

If surveillance activity is required beyond the 72 hours a formal renewal application on [RIP2](#) will be required.

If surveillance is not required beyond the 72 hours limit, the applicant must complete form [RIP3 \(link is external\)](#) up to and including section 2 to accompany form RIP1.

For more information on completing the RIP1, see [Applying for directed surveillance](#).

# Use of the Internet in Fraud Investigations

## 00 Introduction

1. These instructions are to be applied by the Counter Fraud and Compliance Directorate (CFCD) when investigating referrals involving use of the internet.

2. The types of fraud perpetrated against the Department have not changed, although, the internet has provided new tools for the fraudster to use.

3. Owning a website is not an offence in itself and therefore there is still a requirement to show that an income is being generated by a claimant's alleged site. Alternatively, a website may be used for advertising purposes only. In such cases there is a requirement to show that an income is being generated by other means.

4. To make sure that investigators do not place themselves at risk, it is essential that instructions are adhered to when accessing the internet in fraud cases.

5. You must also fully consider the requirements of the following legislation and policy. Failure to do so may lead to both legal and disciplinary action.

- Computer Misuse Act 1990

- Social Security Administration Act 1992
- Criminal Procedures (Scotland) Act 1995
- Criminal Procedures and Investigations Act 1996
- Human Rights Act 1998
- Data Protection Act 2018
- Regulation of Investigatory Powers Act 2000
- Social Security Fraud Act 2001
- Criminal Justice Act 2003
- Sexual Offences Act 2003
- Department for Work and Pensions (DWP) Electronic Media Policy.

## 01 Acceptable Use Policy

### Acceptable Use Policy

1. Websites may contain material that could cause offence, or material that is illegal in its content. When accessing the Internet at any time using a departmental computer it is essential that the Department for Work and Pensions (DWP) [Acceptable Use Policy](#) complied with.
2. [Redacted]
3. [Redacted]
4. [Redacted]
5. Written Band D authorisation must be obtained prior to requesting the unblocking of any site and a copy of the Band D authorisation attached to the FRAIMS case, this can be in the format of an e-mail, see [FRAIMS guidance - Attaching document and photographs to activities](#).
6. [Redacted]
7. The Sexual Offences Act 2003 places restrictions on persons who are carrying out investigations as to what they may do in relation to images of young persons.
8. If you come across a case where it is suspected that a claimant may be running a website involving pictures of young people, who could be children, the matter must be referred to the police.
9. You should not under any circumstances attempt to access images or print them off, as you may commit an offence under the Act, even though you are conducting a criminal enquiry. Only the police, or agents appointed on their behalf, have the authority to do this.

## 02 Technical Details

### Domain names

A domain name is used to distinguish a machine or site on the Internet. Each domain name relates exclusively to an Internet Protocol (IP) address. No two parties may ever hold the same domain name at the same time.

The IP address is a unique identifier and displays in the following format: '172.16.254.1'.

When investigating a claimant's alleged website you will usually require the site 'domain name', or partial domain name.

[Redacted]

[Redacted]

This action **must** be undertaken before any attempt is made to access the claimant's alleged website. Where a link to a claimant is established **do not** access the alleged website in question unless it is essential to the case.

Additional registration data available will normally provide sufficient information to progress a referral further, and can include:

[Redacted]

## **Domain name not registered to claimant**

Not all identified registrants of a domain name will be the claimant. This could be a person or company responsible for designing, building and maintaining a website on a claimant's behalf. If this is the case, it may be necessary to access the alleged site to establish a link to the claimant.

Alternatively, you may choose to approach the registrant suspected of being responsible for the site. Any approach must be made under the provisions of Data Protection Act 2018 paragraph 2(1) of Schedule 2.

This action must be considered by the Operational Intelligence Unit (OIU) on receipt of a Request For Information (RFI) completed by the investigator, see [FRAIMS guidance – RFI completion](#).

**Note:** [Redacted]

An approach to the [Internet Service Provider](#) (ISP), which is defined as a person, organisation or company that provides access to the Internet, may not be appropriate at this stage.

## **Internet Protocol address**

Any website, provided it has the appropriate features enabled, is able to record the Internet Protocol (IP) address, also known as a digital footprint, of a visitor to the website.

[Redacted]

[Redacted]

## **Web hosting or host sites**

Host is a reference to a computer that runs 'host software' and is connected to a network that offers a facility to one or more computers. The host site stores pages and images that can be accessed via the Internet by users.

An example of this is someone advertising cars for sale via a nationally recognised Internet trading magazine. Known as Web Hosting, the server owner sells disk space to website owners.

## **Internet Service Provider**

An Internet Service Provider (ISP) provides access to the Internet either through a home connection by broadband or dial-up or by access to a web server either, shared or dedicated for business purposes.

In addition to Internet access, many ISPs provide other services such as web hosting, domain name service and other proprietary services.

As with any utility company, the ISP will be able to provide information that includes:

[Redacted]

## **Phishing e-mails**

Phishing is the fraudulent act of e-mailing a person in order to obtain personal or financial information such as passwords, credit card or bank account details.

These activities can often include a link to a bogus website encouraging you to enter your passwords and personal information.

If you receive any reports of, or in the course of your duties identify, phishing e-mails relating to the Department for Work and Pensions (DWP) and its business, you should follow the instructions on [DWP Security Phishing Homepage](#).

### **Unauthorised online changes**

The Cyber Crime Intelligence Desk (CCID), based **[Redacted]** will accept any referral that involves unauthorised changes to a claimant's online claim, for example:

**[Redacted]**

These are all indicators of a phishing attack that could lead to a loss of personal information and/or benefits or allowances.

DWP referrals can be made to the desk by e-mail to: **[Redacted]**

Where appropriate, the CCID will develop an investigation pack to be actioned by the relevant investigative area.

### **Bogus websites and brand abuse**

Brand abuse can occur in three ways:

- bogus web pages that are counterfeit or fake and that make people believe they are on a genuine website, such as GOV.UK. They:
  - may use a similar domain name and layout to an official website
  - are usually attached to a phishing e-mail and seek personal or financial information such as passwords, credit card/bank account details
  - could potentially be used to claim benefit or alter claimant records at a later date
- sites intended to mimic or resemble departmental websites by name or design and/or charge claimants for services provided by the Department for Work and Pensions (DWP) at no extra cost, for example, jobseekersallowance.com or call redirection to DWP via a premium rate telephone number
- inappropriate or mistaken use of departmental branding by legitimate companies, for example, training agents and providers

Details of bogus websites, websites that mimic DWP services or charge for services must be referred to the Cyber Crime Intelligence Desk (CCID) by e-mail to: **[Redacted]**

Any case involving the inappropriate or mistaken use of DWP branding should be referred, by e-mail, to the DWP [brand enquiry service \(link sends e-mail\)](#).

Bogus websites must not be accessed knowingly.

### **Novelty or counterfeit document websites**

There are a large number of websites specifically set up to sell novelty documents. Novelty documents are copies of official documents reportedly produced for the purposes of entertainment or education. These can range from birth certificates to wage slips and official sick notes.

It is illegal to use such documents for purposes other than entertainment or educational use. If documents are used with the intention to deceive they become false or counterfeit documents.

Allegations or queries received regarding websites of this nature must be referred to the police or other appropriate bodies where identified.

Referrals suggesting the cloning of identities, forging or counterfeiting of or use of documents, for suspected benefit fraud purposes must be completed on a Fraud Referral Form (FRF).

For more information, see Identity Fraud - [Suspect Identity](#).

# Witnesses

## 00 Introduction

Once prosecution preparation has been authorised, request the witness statement to avoid any unnecessary delays to the investigation. Stringent management of BFs is required to assist this.

1. Many cases rely upon information from witnesses to prove or disprove a fact or to produce an exhibit, both of which may be used as evidence in court. In Scotland the exhibits are referred to as productions or labels.
2. A witness is a person who has knowledge of an event, document, record, system or person. This knowledge is recorded in the form of a statement, which can be verbal or written.
3. In England and Wales this statement is recorded in line with the Criminal Justice Act (CJA) 1967 and is more commonly known as 'Section 9' statement.
4. In Scotland, statements should be taken whilst having regard to Criminal Procedure (Scotland) Act (CP(S)A) 1995 and The Crown Office Guide for non-police reporting agencies.
5. If the defence and prosecution are in agreement, the statement can be accepted and read in full, or in part, in a court without the witness having to attend to give evidence in person. If the defence do not agree, usually because they wish to cross-examine the witness, the witness will need to give evidence verbally in court.
6. In Scotland, it will be necessary for the witness to attend court in order to provide oral testimony.
7. It is therefore vitally important to interview the witness correctly in the first instance, in order to obtain as much relevant evidence as possible. It should be recorded in a clear and factual manner to assure the quality of the evidence offered in court and enhance the investigation.
8. In England and Wales, an accurate and factual witness statement may reduce the likelihood of extensive questioning of the witness in court. This could limit the avenues open to the defence in cross-examination.
9. The witness statement can also be used as an effective interviewing tool, when trying to establish the facts.

## 01 Interviewing Witnesses



## Conduct of the investigator

1. The Department for Work and Pensions (DWP) has a [Standards of Behaviour policy](#), which all staff must follow when dealing with the public. Further information can be obtained from the [Civil Service Code \(link is external\)](#).

2. Investigators must at all times have regard to the Code of Conduct and Good Practice and consider how they appear to the witness. They should demonstrate the following qualities:

- professionalism - maintain a high level of competence in manner and action
- sincerity - maintain the confidence of the witness
- impartiality - complete neutrality and open mindedness
- empathy - place yourself in the position of the witness
- firmness - control the interview at all times
- integrity - be honest with yourself and the witness at all times.

3. The basic guidelines below, if followed by investigators, may help to maintain the professionalism of the interviewer:

- do not pre-judge
- do not show personal feelings or opinions
- be open minded and receptive to all information
- do not try to impress the witness
- do not be sarcastic or demeaning
- do not lie or make false promises, particularly regarding the possible need to attend court
- do not underestimate the witness
- do not display signs of being nervous, display confidence
- be motivated only to find the truth
- remain calm and even tempered
- listen to the witness and
- be patient and understanding, rephrasing questions where necessary.

## Considerations prior to interviewing a witness

4. It is good practice to interview a potential witness as soon as practicable following an event or incident, whilst the events are still fresh in their minds.

5. This consideration is not so important if the witness is to be interviewed simply to produce a record or document, for example, to confirm wage records of payments to a specific individual.

6. Where it is apparent to the investigator that a witness may alert the subject of the investigation of their enquiry, alternative lines of enquiry should be considered.

7. Ideally, the witness interview should be conducted in comfortable surroundings offering privacy and a minimum of disruptions. Wherever possible arrange the interview at a time and location convenient for both the witness and the investigator.

8. The details of where and when the interview is planned to take place must be recorded on FRAIMS. The investigator should be in a position to give the witness their full attention whilst interviewing with as few distractions as possible.

9. If the interview is planned in the office record the details of the letter sent inviting the witness for interview or details of any telephone call made, see [FRAIMS guidance – Arrange the interview](#).

10. Note the reason for the interview as evidence recovery. Also note the time and date of the planned interview.

11. If the interview is taking place as a result of a visit by the investigator record the details of the date and time of the planned visit and the method by which the witness has been informed that they are being visited on FRAIMS, see [FRAIMS guidance – Scheduling a visit](#)

12. The investigator must plan and prepare the interview in advance and have structured aims and objectives. The investigator must be familiar with the facts of the case, examining all evidence and reports held.

13. The investigator must have an understanding of the elements of the alleged offences that are being considered and the facts required to prove or disprove them. This will facilitate clear and simple questioning and reporting of the facts, leading to the production of a high quality witness statement.

### **Reliability**

14. When considering who to use as witnesses, certain criteria should be considered regarding their reliability such as:

- whether they are the right person to give evidence
- whether they can stand up to cross-examination by the defence whether they have first hand knowledge of the relevant facts
- is that person competent to give evidence?
- can that person be compelled to attend court?
- does the witness bear a grudge or could they simply be mistaken?
- the type of evidence being given.

### **Witness competence and compellability**

15. There is a distinction between witness competence and witness compellability.

16. Witnesses are generally considered to be both competent and compellable. A competent witness is one who is capable of giving evidence in court and a compellable witness is one who must give evidence if compelled to do so by the court.

17. There are a number of exceptions to these rules, the main one being that in England and Wales a spouse/civil partner cannot be compelled to give evidence against their partner, but note this only applies to married couples/civil partners and does not apply to couples who are no longer married/civil partners.

18. In Scotland from 28 March 2011 a spouse/civil partner can be compelled to give evidence against their partner.

19. The following categories of witnesses require special attention:

- spouses/civil partners. In Scotland spouses /civil partners are compellable from 28 March 2011
- young persons and children
- those with a mental or intellectual impairment
- diplomats and Members of Parliament (MPs).

### **Spouses/civil partners**

20. In England and Wales (E&W), the position of the spouse/civil partner as a prosecution witness is governed by Section 80 of the Police And Criminal Evidence Act (PACE). The spouse/civil partner is competent but not compellable.

21. In Scotland from 28 March 2011, a spouse/civil partner is compellable under Section 86 of the Criminal Justice and Licensing Act 2010 for the prosecution. For cases that commenced before that date they are only compellable under Common Law.

22. In England and Wales when taking a statement from a person with a view to using it as evidence against their spouse/civil partner, they should be advised of their legal position and the following paragraph, amended as required, added at the foot of their statement:

“I am willing to give evidence in court against my husband/wife/civil partner if proceedings are brought against him/her by Jobcentre Plus/LA. I voluntarily agree to give evidence knowing that I am not compelled to do so.”

23. In Scotland, the spouse/civil partner should be advised that they are compellable witnesses and their statement will be used in evidence.

24. When interviewing spouses/civil partners or ex-spouses/civil partners, investigators should always consider how reliable the evidence of a spouse/civil partner or former spouse/civil partner would be and should probe any inconsistencies when interviewing such witnesses.

### **Children, young persons and other vulnerable persons**

25. Investigators should take legal advice before interviewing children, young persons or other vulnerable persons.

26. In E&W, advice should be sought from the Crown Prosecution Service (CPS) on whether it is appropriate to obtain evidence from a child witness, a person under 17 years of age.

27. In Scotland, there are four ages that are of legal significance in the growth to adulthood. It has to be noted however that in certain circumstances the child or young persons actual level of maturity and understanding are more relevant than their age:

- eight years old – It is conclusively presumed that, before this age, no child can be found guilty of any offence. eight years old is therefore the age of criminal responsibility; Criminal Procedure (Scotland) Act, section 41
- 12 years old – A person first acquires legal capacity to do certain acts like making a will, express views on future care and instruct a solicitor, although some of these will be possible before this age provided that the relevant level of understanding is present; Section 2(4)(A) of the Age of Legal Capacity (Scotland) Act 1991
- 16 years old – Amongst other things one attains capacity to enter into legal transactions. Parental rights and responsibilities in respect of the child fall away at this age, with the exception of the responsibility to provide guidance which stays until the young person reaches 18; Age of Legal Capacity (Scotland) Act 1991 and Children (Scotland) Act 1995
- 18 years old – Young person reaches majority and becomes an independent, autonomous adult (Age of Majority (Scotland) Act 1969 (c 39), s 1(1)).

28. In E&W, it will be rare for cases to be authorised for proceedings in which the evidence of a minor, young person or other vulnerable persons.

29. In Scotland, evidence given by children in court falls within a category of exemptions to the general rule that no evidence is admissible in court unless it is given on oath or affirmation.

30. Children under 12 years of age are admonished to tell the truth, those between 12 and 14 are sworn or admonished at the judge's discretion; common law: *Anderson v. McFarlane* (1899) 6 SLT 291; and those over 14 are usually sworn.

31. A witness of defective mental capacity is sworn or admonished at the Judge's discretion; common law: *HM Advocate v. Black* (1887) 1 White 365.

32. Before exercising his discretion the judge must be satisfied that the child or person of defective mental capacity is a competent witness who has a sufficient appreciation of the seriousness of the occasion and the added responsibility to tell the truth which is involved in taking an oath.

### **Diplomats and MPs**

33. The investigator is not necessarily precluded in law from interviewing these categories of witness, though they should seek legal advice prior to making an approach to those listed below.

34. Total or partial immunity from compellability to give evidence is afforded to:

- heads of sovereign states
- diplomatic agents and their households
- administrative and technical staff, and their families, of diplomatic missions
- consular officials
- staff of international organisations.

35. In addition, original correspondence from a constituent to an MP may be protected by Parliamentary Privilege. Although elected council members are not subject to the above, investigators should seek policy advice from senior Local Authorities officers

## **Witnesses that require interpreters**

### **Process in England and Wales**

36. If a witness has difficulty speaking or understanding English it will be necessary for the investigator to obtain the services of an independent interpreter.

37. The process for obtaining an interpreter and how the interview is conducted and recorded is similar to the process when an interpreter is required in an interview under caution when the report is recorded in writing rather than on tape. See [Interpreters \(Including sign language interpreters\)](#).

38. The witness statement will be completed on the [MG11 \(link is external\)](#) by the witness in their own language or by the interpreter if the witness is unable or unwilling to do this, and signed by the witness.

39. The interpreter will then provide an English translation confirming that it is a true and complete translation of the witnesses' statement.

40. This process is based on [CPS guidance \(link is external\)](#) for witnesses that require interpreters. It is also a requirement under PACE C:13.

### **Process in Scotland**

41. In Scotland if a witness has difficulty speaking or understanding English it will be necessary for the investigator to obtain the services of an independent interpreter.

42. The interpreter will provide an English translation of what the witness has said on the PF11(S).

43. There is no requirement for a written statement in the witnesses' own language because oral evidence would be given by the witness in court if necessary.

## **Reluctant or hostile witnesses**

### **Employers**

44. In a case where an employer refuses to give a witness statement to produce wage records in court, or an organisation refuses to confirm entries on official records:

- conduct the interview
- leave the employer's premises and
- seek legal advice.

45. In England and Wales, a witness summons or subpoena may be served to obtain the records.

46. In Scotland, it may be possible to request a search warrant through the Procurator Fiscal (PF). A complaint or petition made under the CP(S)A 1995 may also be sufficient to obtain a search warrant, both being executable by the Police.

47. For further information, see [Employer Investigations](#).

### **Statement withdrawn**

48. In England and Wales, a witness can ask to withdraw their statement at any time, including at the court hearing. If this occurs before the court hearing, the witness is legally required to complete a written withdrawal statement recording their reasons, for example, fear of threats and reprisals.

49. The witness should be advised that their withdrawal may not affect the requirement for them to attend court to give evidence in person.

50. Where proceedings have been instigated, urgent legal advice must be sought.

51. In Scotland, although a witness is not able to withdraw their statement as it was not submitted as evidence, they may wish to indicate that they did not tell the truth in the earlier

statements. If this is done the Procurator Fiscal should be advised immediately and a further statement taken.

## **Interviewing the informant**

52. If contact details for the person making the allegation are provided on the Fraud Referral Form (FRF) they may be willing to provide evidence to the investigator as a witness.

53. They should be asked if they are prepared to provide evidence in the form of a witness statement. Before taking the statement the investigator should remind the witness that their evidence, and/or witness statement, could be disclosed to the suspect and their legal representatives and that they may also be required to attend court to give evidence on oath.

54. If, after being told the above, the witness declines to provide a witness statement on the grounds that they do not want to be identified as the source of the allegation or query, any such information they do provide should be categorised as informant evidence.

55. The investigator should not disclose to the informant or the witness any information about the claimant.

56. It is for the informant or the witness to provide information upon which lines of enquiry can be developed and it is not appropriate for the investigator to disclose to the informant or witness confidential information.

57. The investigator must not task the informant or witness, expressly or by implication, to acquire further information about the claimant. To do so could create a Covert Human Intelligence Source (CHIS) relationship, for further information about CHIS, see [Covert Human Intelligence Sources](#).

## **The interview**

### **Opening the interview**

58. Investigators should be aware that witnesses may be uneasy at the prospect of giving information, or apprehensive at the thought of appearing in court.

59. The interviewer must introduce themselves and give details of:

- the reason for the interview
- the information required and
- the statutory basis on which it is requested.

60. If the witness is providing information about their spouse/civil partner, the investigator must tell them at the outset that they are not required by law to provide any information, whether documentary or otherwise, that tends to incriminate their spouse/civil partner.

61. In England and Wales (E&W), the witness statement [MG11 \(link is external\)](#) must include the statement:

‘This statement is true to the best of my knowledge and belief, and I made the statement knowing that, if it were tendered in evidence, I would be liable to prosecution if I wilfully stated in it anything which I knew to be false or did not believe to be true’.

62. In E&W it must be explained to the witness that the matter may need to be dealt with in court and, if so, the court may accept a written statement and not require the witness to attend and give evidence in person.

63. This does not affect their right not to give a statement but may increase the likelihood of attending to give evidence in person, if required by the court. In Scotland, the witness will have to attend court in all cases.

64. If the witness is willing to give a statement advise them that they can withdraw it at a later stage.

65. The investigator must then confirm that the witness fully understands the advice given and ask if they are willing to give a statement. The interview should continue whether the witness is willing to give a statement or not.

66. The interviewer must take time to put the witness at ease and try to build up a rapport and gain their trust. Some simple steps to achieve this may include:

- gaining the confidence of the witness by creating a relaxed atmosphere, avoiding familiarity that undermines professionalism
- showing positive responses, avoiding negative expressions
- encouraging the witness but not pressurising them
- avoiding questions that may make the witness suspicious of the interviewer
- being sympathetic and interested in the needs and problems of the witness.

67. Wherever possible, only begin to interview the witness once they are relaxed and co-operative. Do not be afraid to rebuild the rapport if the witness becomes uncooperative.

68. It is important to clarify why the information is required and the statutory basis on which it is requested. Remember, a willing relaxed witness is likely to provide more information to assist with the investigation.

69. At the start of the interview obtain basic information from the witness to enable the completion of the [MG11 \(Part 2\) \(link is external\)](#).

70. The following information must be obtained in all cases:

- full name
- date of birth
- contact address
- telephone numbers and
- dates when they are not available in the next six months should they be required to give evidence in court.

71. This information must remain confidential and should only be required if the witness needs to be contacted at a later date.

72. Extreme caution must be exercised by the investigator to avoid creating false rumours, suspicions or character defamation. Remember a witness may be a friend, relative, work mate or neighbour of the subject.

### **First recollection**

73. Having explained the reason for the interview, the investigator should ask the witness to recall all the information they know or have in relation to the subject, incident, or record. This is known as 'first recollection'.

74. When listening to the first recollection of the witness, the investigator should:

- make rough notes of the salient points in the official notebook (N1)
- use open questions as a prompt to gain more detail about a salient point
- not interrupt or restrict the witness from giving their full recollection, even if it appears to stray from the subject.

### **Compiling the statement**

75. From the first recollection, the investigator should identify the information relevant to the enquiry and further question the witness to confirm specific facts. This may trigger the memory of the witness to recall greater detail.

76. Ask the witness questions from differing perspectives if they struggle to recall events.

77. The investigator should avoid leading the witness and must allow them to use their own words. If, when questioned about salient points from the first recollection, the witness cannot remember further details about a fact, that also should be included in their statement. The statement must be that of the witness.

78. Remember, all evidence must be considered, even when it does not appear to support the case (as stated in the Criminal Procedure and Investigations Act (CPIA) 1996). The primary function of the interview is to establish the facts.



79. All evidence must be recorded and retained, as, in E&W, disclosure may be required at a later date.

80. Although disclosure does not apply in Scotland, all evidence obtained should be retained and recorded as good practice.

81. From this point the investigator must direct the interview, keeping the witness focused on the salient points and obtaining evidence that is relevant to the enquiry.

82. The investigator must confirm that the information provided by the witness is accurate and reliable by asking them questions such as:

- how do you know...?
- when was this?
- who else was present?
- why do you remember?
- how do you know the subject?
- how long have you known the subject?
- can you recognise the subject?
- what records are held and where?

This list of questions is not exhaustive.

83. A witness may think they know certain facts, but upon close questioning the investigator may establish that the supposed evidence is simply rumour, hearsay, or indeed false.

84. The investigator must attempt to identify the hearsay and establish the facts that the witness can qualify. For further information, see [Evidence](#).

85. On occasions a witness may insist on including information, which appears to be irrelevant, or hearsay. However, if this is included the court may choose to ignore this information and proceed with the remaining evidence.

86. If a witness provides information of an observational nature remember to employ ADVOKATE principles during the interview. This will help obtain a much stronger statement. These principles are:

A - amount of time

D - distance

V - visibility

O - obstructions

K - known to witness

A - any reason for remembering

T - time elapsed

E - errors of material discrepancy.

87. If during an interview a witness produces an item of evidence that may assist the case, such as correspondence or official records, where possible the investigator should refer to the item as an exhibit/production and give it a unique reference.

88. This will be the initials of the person producing the items and a number, beginning sequentially from one per item exhibited/produced.

89. In any statement to assist with identifying the exhibit/production in court the witness should refer to the exhibit/production by the reference number and give a description of the item. For example:

"I John Smith produce exhibit/production number JS/01(where known), which is a wage slip for PAYE week ending 07/01/03 in respect of David Brown, NI Number ....."



90. The witness should retain the original exhibit/production if it is their property and provide the investigator with a certified copy. They should be advised to retain the original because it may be required by the court.

91. The investigator must record the details of the exhibit/production on FRAIMS, see [FRAIMS guidance – Receipt of physical evidence](#)

### **Conclusion of interview**

92. Once the witness has recalled all the facts known to them the investigator should summarise and arrange them in a chronological order. Check with the witness that the information is accurate, clarify and change any discrepancies.

93. At this stage the investigator should also check that the information is relevant and meets the aims and objectives of the interview.

94. Only when the information has been checked and endorsed by the witness should the statement be written on the witness statement [MG11 \(link is external\)](#).

95. The statement should be written by the witness wherever possible. On completion it should be read by the witness and any alterations initialled by them. If the witness cannot read, the statement must be endorsed to show it has been read to them and they have agreed the content.

96. If it appears that the witness may be lying, advice should be given relating to the implications of providing a false statement and that they themselves may face prosecution. If the statement is signed and found to be untrue legal advice must be sought.

97. In all cases the investigator must ensure that the statement is annotated in the body of the text, preferably at the end, to show that:

- the witness understands that the statement will be used as evidence
- that it is made of their own free will
- they may be required to attend court.

98. In cases where the witness has made a statement relating to their spouse/civil partner in England and Wales it must also include:

“I [name] am willing to give evidence in court against my wife/husband/civil partner if proceedings against her/him are brought by the DWP. I voluntarily agree to give evidence knowing that I could not be compelled to do so.”

### **Telephone interviews in Scotland**

99. Whenever possible witness interviews must be carried out ‘face to face’, when this is not possible, in Scotland it is acceptable for the interview to take place over the telephone.

100. Following the interview a statement containing all the information given must be written on the [PF11S Part 1 \(link is external\)](#) which will then be sent to the witness to check, amend if necessary, and sign and date before returning it to the investigator.

101. If the witness fails to sign this statement it can still be used in the prosecution case although all personal details must still be obtained in accordance with the [PF11S Part 2 \(link is external\)](#).

### **Post interview action**

102. As soon as practicable after the interview note the fraud file stating:

- any relationship of the witness to the subject
- any relevant family circumstances
- the suitability and willingness of the witness
- the availability of the witness to attend court
- what the witness said if they refused to sign the written statement and
- the details of any information that the witness seemed able to give but was unwilling to have included in the written statement.

103. FRAIMS must be noted depending on where the interview took place. If the interview took place:

- in the office, see [FRAIMS guidance – Claimant attends the interview](#)
- at a visit, see [FRAIMS guidance - Effective visit](#).

104. If a witness asks for a copy of the statement they have made, the investigator should make arrangements to provide one.

105. Once prosecution preparation has been authorised, request the witness statement to avoid any unnecessary delays to the investigation. Stringent management of BFs is required to assist expediency.

## 02 Vulnerable witnesses

### Vulnerable Witnesses

1. If the witness indicates during the interview or informs the investigator at any time after the interview that they are vulnerable and could suffer violence or another form of intimidation from the suspect or third party:

- in England and Wales, the investigator must contact the Crown Prosecution Service (CPS) for legal advice. CPS will explore the possibility of the witness evidence being tendered at court without the need for the witness to attend court and/or for a witness anonymity order to be considered.
- In Scotland, if a witness is considered as being vulnerable it must be mentioned on the PF13, for further information, see [Notifying the Procurator Fiscal](#).

### Witness anonymity order - England and Wales only

2. After the investigator/Digital Case Management Unit (DCMU) has contacted CPS, a senior lawyer will consider whether to apply for a witness anonymity order under the provisions of the Coroners and Justice Act 2009, which from 1 January 2010 superseded provisions under the Criminal Evidence (Witness Anonymity) Act 2008.

3. A witness anonymity order can only be granted by the court if the conditions under section 88 A to C of the Coroners and Justice Act 2009 are met. These are:

(A) The proposed order is necessary in order to protect the safety of the witness or another person or to prevent any serious damage to property, or to prevent real harm to the public interest (whether affecting the carrying on of any activities in the public interest or the safety of a person involved in carrying on such activities).

(B) That having regard to all the circumstances, the effect of the proposed order would be consistent with the defendant receiving a fair trial.

(C) The importance of the witness's testimony is such that in the interests of justice the witness ought to testify and the witness would not testify if the proposed order were not made, or there would be real harm to the public interest if the witness were to testify without the proposed order being made.

4. CPS may request a written report from the investigator of the reasons why a witness anonymity order should be obtained.

5. Alternatively, the lawyer may request a meeting with the investigating officer in order to discuss whether an application for a witness anonymity order should be considered.

6. The investigator will be informed as soon as the senior prosecution lawyer decides whether an application for a witness anonymity order is appropriate.

7. If an order is appropriate the prosecution lawyer will also inform the investigator how the prosecution file should be prepared to ensure the identity of the witness is not revealed or compromised while the file is prepared for proceedings.

8. If the prosecution file is prepared by the DCMU it is imperative that the DCMU liaise with the prosecution lawyer to ensure anonymity of the witness.

### Vulnerable witness - Attendance at court

9. Do not write to witnesses who have been identified by Counter Fraud and Compliance Directorate (CFCD) or CPS as being vulnerable or subject to intimidation.

10. These people must be visited and warned of their possible requirement to attend the trial and asked for availability dates in person.

11. If the witness is the subject of a witness anonymity order obtain advice from CPS on how the witness should be contacted and what information can be provided to them

## 03 Witness statements

### Addresses

1. When obtaining witness statements the investigator must obtain contact details of all witnesses such as addresses and telephone numbers. These details must be documented on [Part 2 \(link is external\)](#) of the MG11 for E&W or [PF11s part 2 \(link is external\)](#) for Scotland and must not be disclosed to the defendant or the defence solicitors.

Where the address details are for a personal address rather than a corporate or business address, these must be input into the MG11/PF11s part 2 and not released to the suspect in disclosure. Follow guidance under [Redaction](#).

2. Contact details for departmental or local authority witnesses will be their office location.

### Potential witnesses who decline to provide a statement

Where a Bank or Financial Institute declines to provide an MG11 (E&W) PF11s (Scotland) witness statement, the investigator must first send a request by email to the Operational Intelligence Unit Team Leader to ask that they seek to use their contacts to obtain the required MG11 statement. If this fails to obtain a statement then the issue must be raised through the investigators line management route way to resolve for this instance and to make sure that there are no further issues.

In cases where the business supplying an EQ1 have gone into administration, the investigator must contact the administrators to provide an MG11/PF11s as they should have access to the appropriate records to confirm the data in the EQ1. Where a company has gone into liquidation, the investigator must obtain details of the lawyers involved in the liquidation (this is usually available from Companies House) and contact the lawyers for an MG11/PF11s.

In other cases where a witness statement cannot be obtained after enquiries have been made, or a witness declines to provide an MG11/PF11s, the investigator must seek to obtain proof of the offence via other sources where available, with the new information provider supplying an appropriate MG11/PF11s to exhibit the new evidence. If no alternative MG11/PF11s source is available, the Investigator and Higher Investigations Leader must discuss whether there is other sufficient key evidence on file to prove the offence without the un-exhibited document. If so, proceed as normal, listing the original business (name only) on the MG5 section 3 and the MG9 (non-key). Specify on MG6 section 5d the business (do not list an individual) and explain why they have declined to provide an MG11/PF11s. **Do not** list the original document in the MG12. No MG11/PF11s Part 2 is required for the business. Where the Investigator is unable to identify an alternative MG11/PF11s source and would still like CPS to consider the original item for future use as key evidence, list the item, with business name only under non-key (MG5 section 3) and explain that the MG11/PF11s had been declined. List the business (name only) on the MG9 (non-key) and on MG6 section 5d. No MG11/PF11s Part 2 is required at this stage as there is no witness. Attach the item you wish CPS to consider, to the email as a standalone document for consideration and explain that the MG11/PF11s has been declined. Do not list the item on the MG12. At this point, CPS can consider whether it is appropriate to obtain a witness summons in order to use the item as evidence. A document can only be listed as key evidence within the prosecution file when it is accompanied by an MG11/PF11s to exhibit it.

### Bank, Financial Institution, Non-Government agencies such as The Passport Office

**Bank information** is produced as non-key evidence in the first instance and the information is transferred onto either a Schedule of Assets or Schedule of Payments depending on the offence type. This schedule is then exhibited as key evidence by the LSIO (i.e. in their MG11).

Good practice would be to present all such evidence at an IUC, so that we can obtain recognition and acceptance that it is true and correct, and that it relates to the person being interviewed.

If there is any dispute with the original banking information this must be upgraded into key evidence.

In all cases a statement must be requested from the bank at the earliest appropriate date.

There may be occasions where we are establishing someone's address history, and where the banking evidence is a key factor in that. In these instances where the address history is considered key evidence, an MG11 should be obtained from the bank when the information has been established as key. At this point, a completed MG11 Part 2 and exhibit labels should also be obtained.

In any circumstance where we are required to provide a witness statement we must also provide a completed MG11 Part 2 with all the identifying details including date of birth. These details are required in order to be able to complete a PNC check.

Occasionally we remain unable to obtain these full details, in which case this fact and the details as we have them, will be relayed within the MG6 notes to advocate. For sensitive information refer to [Sensitive information \(link is external\)](#).

In all circumstances the investigator should seek to obtain a single MG11 to cover the case, both Key and Non Key as it may apply.

This guidance also covers other financial institutions such as Pension Funds, and information from Non DWP government agencies such as The Passport Office

## **Contents of Witness Statements**

4. Investigators must ensure that the statement does not contain hearsay, opinions, irrelevant, or prejudicial comments.

5. The information recorded must be as near as possible in the actual words of the witness, and fully cover all facts, which the witness can say and which are relevant to the investigation.

6. In Scotland, statements should be taken whilst having regard to Criminal Proceedings (Scotland) Act (CP(S)A) 1995 and the Crown Office Guide for Non-Police Reporting Agencies.

7. In summary the contents of all witness statements must be:

- admissible - do the rules of evidence allow it to be said at court?
- reliable – consider the person giving the evidence, the process by which it was obtained or the nature of the evidence given
- probative/relevant – does it aim to prove or disprove what is alleged?

## **Prosecution Require Witness Statements**

17. If the prosecution requires further statements, these witness statements with any accompanying exhibits copies, not originals, must be sent to the prosecuting authority.

18. Send the original statement and four copies to the prosecuting authority together with copies of the exhibits.

19. Crown Prosecution Service (CPS) serves the statements on the appropriate persons and deals with pre-trial legal requirements such as service of bad character and hearsay notes.

## **Witness Statements from Her Majesty's Revenue and Customs**

14. Witness statements from the Her Majesty's Revenue and Customs (HMRC) for Tax Credit evidence can be obtained by completing the [HMRC3 \(Joint working\) \(link is external\)](#) and e-mailing it to the **[Redacted]**  
Ensure appropriate subject header is used, for example:

- Intelligence package request – DWP for Information, or
- Witness Statement request – DWP (if a witness statement is required).

### **Witness Statements from Serving Police Officers**

CPS regard that a serving police officer cannot have anything disclosed on a PNC check which would be an issue in the probity of the case. If the Police Officer declines to give their full details such as Date of Birth, then the Investigator must add a note on the MG6 and accept the witness statement given.

### **Witness Statements from Social Fund**

#### **Generic witness statements**

9. Generic / procedural Social Fund witness statements will be provided by the Central Social Fund Decision Making Team based in **[Redacted]**.

#### **Specific/Individual witness statements**

10. There may be rare occasions where a generic Social Fund witness statement will not suffice, for example, due to the nature of the legal argument. A witness statement may therefore be required from the actual decision maker or a person in a Contact Centre that took the original call.

#### **Court attendance/Generic witness statements**

11. In the event that court attendance is necessary, the team in **[Redacted]** will appoint a Social Fund representative from a location closer to the court.

#### **Specific/individual witness statements**

12. On the very rare occasion that court attendance is necessary, the team in **[Redacted]** will act as the first point of contact to facilitate court attendance.

#### **Contact details**

13. In every scenario requests should be addressed in the first instance to the Overpayment Team via their dedicated e-mail address, **[Redaction]**. See [FIS Bulletin 41/12 \(Social Fund Witness Statements\) \(link is external\)](#) for full contact details.

### **Written Statements made in Scotland and Northern Ireland**

15. The Criminal Justice Act (CJA) 1972, Section 46(1) (c) permits written statements made in Scotland and Northern Ireland to be admitted as evidence in criminal proceedings on the same terms as statements made in England and Wales (E&W). However,

- the 'perjury clause' normally at the head of the statement and which commences "this statement consisting of x pages each signed by me" must be omitted
- the age of the witness must be omitted

16. Part 1 of the Crime (International Co-operation) Act 2003 deals with mutual assistance in obtaining evidence in jurisdictions outside E&W.

### **Witness Statements supporting Real Time Information as evidence**

A generic MG11 is completed via a CFCD Interventions nominated local court contact, where the information has been impacted at DWP. Where the RTI information has been used within the Local Authority for a decision and has not been disputed by the customer ([disputed Case](#)), a generic MG11 must be obtained from them. See [Exhibiting Real Time information \(link is external\)](#).

## 04 Witnesses and court

### Court procedures

1. At the conclusion of the interview with a witness, the investigator should inform the witness where to obtain further information about court procedures in the event of being required to give oral evidence in court.

### England and Wales

2. Information about court procedures for witnesses, including an on-line video, is available via the GOV.UK website at [Going to Court as a witness \(link is external\)](#).

3. If a witness contacts the investigator for further information or assurance about court procedures, a copy of the DVD can be sent to them.

4. The investigator should email the request and details of the witness's name and address to: **[Redacted]**

5. CFCD Operational Management and Assurance Team (OMAT) will arrange for the DVD to be issued free of charge. There is no requirement for the witness to return the DVD once the case has been heard in court.

### Scotland

6. For court procedures in respect of witnesses in Scotland, the Witness in Scotland website has produced [Witnesses in Court \(link is external\)](#).

### Witness availability

7. No witness availability need be provided prior to the Arrest Summons Number (ASN) request and notification of the court date. An [MG10 \(link is external\)](#) will be placed on the file as normal, but with no details entered. These will then be entered with witness availability at the ASN request point. \* In Scotland this does not apply, as streamlined file preparation applies as appropriate.

8. It will be necessary for an updated MG10 (E&W) to be completed prior to the following types of hearing:

- Plea and Case Management Hearing (PCMH) in Crown Court
- trial in a Magistrates' Court following a not guilty plea being lodged
- a Pre-Trial Review (PTR) in a Magistrates Court if the Magistrates decide this is required.

9. When these types of hearing have been arranged, the investigator must contact all potential witnesses to obtain dates when they are not available to attend court.

10. The investigator will send a [CH7 \(link is external\)](#) letter with the [CH7A \(link is external\)](#) to all potential private witnesses and official witnesses who cannot be contacted by email, this includes those who no longer work for the Department, in order to obtain up to date details of their availability. Where possible this information will be obtained by email from official witnesses.

11. The contact name and telephone number for the Investigator must be entered at the top of the CH7A. The return date for the CH7A, to be entered on the CH7 and responses to emails from official witnesses must be no later than 14 calendar days before the date of the hearing.

12. In certain instances the witness should be notified by telephone or by visit:

- there are less than 14 calendar days before the court hearing
- the witness has not responded to the letter.

The list is not exhaustive.

### Witnesses required to attend court

Crown Prosecution Service (CPS) will notify the investigator of the names of witnesses required to attend the trial. The investigator will then notify each witness required to attend at least two calendar weeks before the trial.



Official witnesses including those from Other Government Departments such as the Local Authorities (LAs) can be notified by e-mail providing that the e-mail address is GSI compliant.

For official witnesses that do not have a GSI compliant e-mail address and all non-official witnesses use letter [CH5 \(link is external\)](#). This will include Department for Work and Pensions (DWP) and non-DWP witnesses, if required. The witness must be told to retain and bring with them any original documentation required for trial, for example an employer is required to bring original wage documents such as payroll, diaries, staff rosters and signing in sheets.

Investigators who are required to give evidence must bring their N1 official notebook with them.

If an official witness is the former lead investigator/officer in charge who no longer works for CFCD, or the Department, consider whether they should be invited to a case conference with the prosecution lawyers and how they will be kept updated on the progress of the case.

If personal details are required for a current or ex-employee of DWP, an enquiry must be made to the Employer Services Data Protection Team (ESDPT).

For guidance on the procedure to follow to obtain this information see [Obtaining Wage and personal details for Current and Former DWP Employees](#)

The investigator must also ascertain the physical and linguistic needs of witnesses such as whether the witness suffers from any disability and requires wheel chair access/special hearing facilities, etcetera or whether they require an interpreter and inform the prosecuting authority of these requirements who notify the court.

A non-Departmental witness may contact the investigator as they have concerns or issues about attending court, for example;

- difficulties over childcare or transport arrangements
- medical problems or disabilities
- language difficulties
- concerns about possible intimidation
- they require general reassurance about the court process.

Where the witness indicates such concerns, ask them if they would like to be referred to the Witness Care Unit (England and Wales), or Victim Support Centre (Scotland) who may be able to offer assistance.

### **Making a referral to Witness Care Unit / Victim Support Centre**

Where a non-departmental witness indicates they wish to be referred, the investigator must:

- England and Wales – complete the Web Link referral portal, which can be accessed for direct referral to Citizen's Advice Bureau (CAB) who now provide this service - via [CAB Portal \(link is external\)](#).
  - Scotland - email details of the witness to the central contact point
- See [Appendix 2](#) for details of the contact points to be used.

### **Witnesses unable or unwilling to attend court**

CPS must be notified immediately if a witness is unable or unwilling to attend the court hearing. They will rule on whether the case can proceed. which could include:

- the [CH7 \(link is external\)](#) indicates that a witness who is required to attend the trial is not available on the trial date
- witness is seriously ill
- witness has died
- the witness says they refuse to attend, obtain legal advice whether a witness summons should be requested
- witness is living abroad, obtain legal guidance if they are essential witnesses
- the witness cannot be traced.



## **Phasing of witnesses**

This means that witnesses can be asked to attend court at a specific time during the morning or afternoon sitting on a given day.

## **Evidence by Video Links**

Requests for a video link falls under a special measure application (vulnerable and intimidated witnesses) and may include mobility and travel issues. Evidence by video link is an exception and not the norm, and would usually be identified after the issue of a LWAC (List of Witness Attending Court) notice by CPS following a Not Guilty Plea. These come directly from the Review team across all sites via email directly to the investigator. The response from the investigator must be routed back through the same Inbox, and any request for a video link included in the email text body.

Only in very few circumstances will it be possible for CPS to arrange for witnesses to provide evidence by video link. Where evidence of a witness should be considered by video link, DWP must notify CPS at the earliest opportunity so that consideration to an application can be made. If this is known at an early stage, it must be noted on the MG6 and the lawyer will note this potential requirement on CMS for Admin.

Where investigators are required to attend a trial as a witness, they are required to attend in person and not by video link.

## **Witnesses who are prisoners**

Prisoners may be required as witnesses if essential to the prosecution case. In these cases CPS will advise what special procedures are required

## **Profession and expert witnesses**

Professional and expert witnesses should be told of the trial window and asked whether they will be able to attend court on a standby basis.

As a general rule the witness will need to be able to get to court within one hour of receiving the telephone call.

## **Previous convictions or Disciplinary Matters**

31. The prosecution is bound by common law and has a duty under the Criminal Procedures and Investigations Act (CPIA) 1996 to inform the defence of any matters that could undermine the credibility of any prosecution witness.

32. If the trial is to proceed the prosecuting authority is obliged to disclose any relevant previous convictions of all witnesses and an account of relevant disciplinary records of official witnesses.

33. The defence will be entitled to mention these matters in the proceedings. Before admitting them into the proceedings, the court will decide on their relevance.

34. The full names and dates of birth of all prosecution witnesses are required so that previous conviction checks can be undertaken by Crown Prosecution Service (CPS).

35. The investigator must also ensure that the prosecuting authority is provided with contact details of the official witnesses' personnel department.

36. In cases prosecuted by the CPS, they will contact the Human Resources (HR) Department and ask whether any of the official witnesses have a record of past or pending disciplinary proceedings.

37. Once provided with this information, the prosecution authority may decide that they do not want to disclose it and consider withdrawal of the case.

## **Witness Summons**

38. Prosecution witnesses normally attend court voluntarily. If the witness is nervous about giving evidence or court procedures, they can be put in touch with the Witness Service.

39. The court only issues a witness summons where the prosecuting authority can satisfy the court that the witness can give material evidence and that the witness will not attend voluntarily.

40. It is imperative that the prosecuting authority is notified immediately when a witness states that they are unwilling to attend, as the court may refuse to issue a witness summons if an application is not made as soon as is reasonably practicable.

41. When the court has issued a witness summons, the investigator or officer nominated by the Team Leader (TL) / Higher Investigations Leader (HIL), should serve it in person on the witness at least two weeks before the hearing date and return an endorsed copy to the Court.

42. Crown Prosecution Service (CPS) should also be informed that the summons has been served.

## **Appendix 1**

### **Notes to complete the DWP VS referral Form**

Field Title	Input required
WCO Name	Complete if the name of the WCO who will be dealing with the referral is known. If not leave blank.
Witness Care Unit	Input the email address the referral is being sent to.
Date sent	Input the date the referral form is being sent.
Telephone Number	Complete if the telephone number of the WCO who will be dealing with the referral is known. If not leave blank.
Case No	Input the FRAIMS case number.
FI & T No	Input the name and telephone contact number of the investigator.
Defendant	Input the Case Name from FRAIMS. If the Case Name is an operational name input the name of the suspect on the case.
Court	Input the location of the court the witness will be attending.

Stage	Normally 'Trial' will be input however another entry can be input if required.
DOH	Input the start Date of the Hearing the witness will be attending.
Witness	Input the full name of the witness being referred.
Address	Input the full address, including postcode of the witness.
Pref contact	Indicate which telephone number the witness wishes to be contacted on.
VIW	Vulnerable Intimidated Witness – Select as appropriate.
Age	Only complete if the juvenile box selected..
Parent/Guardian	Complete with the details of the parent / guardian if the witness is juvenile.
Date	Input the date of the referral.
Type of contact	Input the investigator's DWP e-mail address.
Pre-trial visit	<p>Select 'Yes' if the witness has not attended court on a previous occasion and has concerns about attending.</p> <p>The Victim Service can arrange for them to visit the court before the hearing.</p>
Young Witness Service	Select if a referral to this service is required as the witness is a juvenile.

Other	If appropriate, give details of why the witness has indicated they have concerns about their attendance and that a CFCD representative will not be attending in person.
Special Measures	Complete the fields if the witness has learning or physical difficulties or other requirements which will need assistance when attending court.
Additional comments	Complete if there are any other details which the Victim Support need to be aware of.

## Appendix 2

### Contact Points for DWP VS referrals

Division	Person / court	CJSM email address
<b>Central</b>		
Cambridgeshire	Luton MC	[Redacted]
Derbyshire / Leicestershire	Leicester CC	[Redacted]
Norfolk / Suffolk	Great Yarmouth Magistrates	[Redacted]
Northants / Lincolnshire	Northampton CC	[Redacted]
Nottinghamshire	Nottingham MC	[Redacted]
Staffordshire / Warwickshire / West Mercia	Stoke Combined Court – Nicola Norcup, SDM	[Redacted]

West Midlands	Birmingham MC	[Redacted]
<b>London &amp; Home Counties</b>		
Bedfordshire	Luton MC	[Redacted]
Essex / Hertfordshire	Mark Feeley (WS SSDM)	[Redacted]
Kent	Medway MC	[Redacted]
London	All courts	[Redacted]
Thames Valley	Oxford Crown Court	[Redacted]
<b>North East</b>		
Durham / Teeside	Teeside Crown Court	[Redacted]
Humberside / North Yorkshire	Hull CC	[Redacted]
Northumbria	Newcastle Magistrates Court	[Redacted]
South Yorkshire	Doncaster Magistrates Court	[Redacted]
West Yorkshire	Bradford Crown Court	[Redacted]
<b>North West</b>		
Greater Manchester	Trafford Magistrates Court	[Redacted]

Lancashire / Cumbria	Preston Crown Court	[Redacted]
Merseyside / Cheshire	Liverpool Crown Court	[Redacted]
<b>Southern</b>		
Avon / Somerset	Taunton Mags	[Redacted]
Devon / Cornwall	Truro Mags/Crown	[Redacted]
Gloucestershire / Wiltshire	Swindon CC	[Redacted]
Hampshire / Isle of Wight / Dorset	Dawn McGee (WS SSDM)	[Redacted]
Sussex / Surrey	Guildford CC	[Redacted]
<b>Scotland</b>		
<p><b>[Redacted]</b></p> <p>Email: <b>[Redacted]</b></p> <p>Telephone: <b>[Redacted]</b></p>		
<b>Wales</b>		
<b>Wales</b>	<b>Cardiff CC</b>	<b>[Redacted]</b>

## 05 Witness expenses

### Witness expenses

1. Prosecution witness expenses are only payable if the witness attends, or is to attend, a case listed for trial.

## **Costs – Pre trial**

2. When serving the summons, the investigator or nominated officer must at the same time inform the witness that if they require attendance costs / conduct money, they must send the request in writing no later than seven days prior to the court hearing to enable it to be processed before the hearing.

3. This is normally limited to the cost of public transport, or by taxi if no public transport is available, to and from the Court.

4. For guidance on how to pay witness expenses, see [The Buy It Catalogue \(link is external\)](#). In the 'Search' field input 'Witness Expenses' to display the details.

## **Costs – Post trial**

5. After the hearing, the investigator, if they have attended court hands the witness expenses claim [CH3 \(link is external\)](#) to all non-departmental prosecution witnesses who wish to make an expenses claim.

6. Claims from Department for Work and Pensions (DWP) witnesses must be made on the Resource Management (RM) computer system.

7. If the witness has already received conduct money to meet their travelling expenses because they had to be summonsed to appear in court, this amount must be deducted

## **Travel and Subsistence**

8. Claims for reasonable travel and subsistence costs for witnesses should be allowed.

## **Travelling expenses**

9. Allow the cost of Standard class rail fare, bus fares or car mileage at the standard rate which is the rate paid to claimants who are asked to attend an office.

10. For information, see [Reimbursement of Customers' Travelling Expenses \(link is external\)](#).

## **Subsistence for private witnesses**

11. Subsistence allowances may be required for private witnesses. These should be paid in line with the [Crown Prosecution Service rates \(link is external\)](#).

12. If the absence exceeds 24 hours, pay the appropriate day subsistence or a further overnight allowance as appropriate.

13. When a prosecution witness requires overnight accommodation and/or rail tickets but has difficulty arranging this, the Team Leader (TL) / Higher Investigations Leader (HIL) may consider the use of official facilities to supply advance rail tickets and overnight bed and breakfast accommodation.

## **Expenses for Official Witnesses**

14. Costs incurred by witnesses who are currently employed by the Department will be reimbursed providing they are claimed in accordance with [DWP Policy \(link is external\)](#).

15. Other official witnesses, such as those who no longer work for DWP or those employed by other Government Departments, will be paid at the Crown Prosecution Service (CPS) rate unless their Department has its own policy for the payment of these expenses

## **Financial Loss Allowances**

### **Loss of earnings**

16. Witnesses who want to claim for loss of earnings must provide confirmation from their employer of the loss. Claims supported by the employer confirmation should be allowed in full.

17. Exceptionally, the witness may be unable to get confirmation. The Team Leader (TL) / Higher Investigations Leader (HIL) decides whether:

- to accept the reasons for not providing a confirmation
- the amount claimed is reasonable and does not exceed amounts set by the Crown Prosecution Service (CPS), see [Loss of earnings claims](#).



### Self-employed earners

18. Claims from self-employed earners should be paid in full if the amount does not exceed the scale and is reasonable, see [Loss of earnings claims](#).

### Employers

19. The TL/HIL should consider claims for reimbursement of expenses incurred by an employer due to their employee attending court as a witness.

### Loss of earnings claims

The maximum amounts allowed when loss of earnings are claimed, excluding those supported by confirmation from an employer, is in line with the rates allowed by the CPS, see [Witness expenses - current rates \(link is external\)](#). These are as follows:

Employment	Claim	Maximum Amount Payable
Employed earners	Absence from work not exceeding 4 hours	£33.50
	Absence from work exceeds 4 hours	£67.00
Self-employed earners	Absence from work not exceeding 4 hours	£42.95
	Absence from work exceeds 4 hours	£85.90

20. Claims for loss of earnings from professional expert witnesses may exceed these amounts. The claim should be allowed if the TL/HIL considers the amount to be reasonable in relation to the witness's occupation.

### Loss other than earnings

21. The expenses paid to a witness should cover losses other than earnings where applicable. An example of this may be when someone has had to employ a babysitter to cover absences from home.

22. Similarly, the costs of cancelling a driving test may be reimbursed when a witness was obliged to attend court on the same day as the test, since it was an expense incurred as a result of giving evidence.

23. Evidence of the financial loss or additional expenditure should normally be produced.

### Expert witnesses

24. In some fraud cases expert witnesses may be required to give evidence. These may be:

- document examiners
- fingerprint experts
- digital analysis experts
- interpreters, as prosecution witnesses. Note: If the interpreter is called by the court to interpret the proceedings, the court pays their expenses.

25. The list is not exhaustive and on rare occasions you may encounter others. If the case does involve expert witnesses, allow reasonable expenses in relation to the profession of the witness, which may include a professional fee.

26. The contracts for forensic services, provided by **[Redacted]**, cover the costs of expenses incurred by expert witnesses, who have provided evidence under the terms of their contract.

27. If the expert witness is providing evidence on behalf **[Redacted]** the company should submit the invoice for costs incurred through the normal payment route and as agreed with Operational Management and Assurance Team (OMAT). If the company submit the invoice directly to the investigator they should forward the invoice to **[Redacted]**

28. OMAT will make arrangements to pay all expert witness invoices submitted by **[Redacted]**.

29. The Forensic Services budget is only used to fund the costs of expert witnesses providing evidence employed by the contractor. The contract is for Department for Work and Pensions (DWP) investigations only.

### **Payment of Witness expenses**

30. The witness should make a written claim for necessary travelling expenses, subsistence and loss of earnings on the witness expenses claim [CH3](#).

31. Where possible blank forms should be handed to the witnesses in court immediately after the hearing. Receipts for bus, train, taxi fares and parking fees should support the claim.

32. The form should be authorised by the Team Leader (TL) / Higher Investigations Leader (HIL) if satisfied that the claim is reasonable.

33. If the witness has already received conduct money to meet their travelling expenses, this amount must be deducted from any new claim made, see [Costs – Pre-Trial](#).

34. Witness expense forms for Counter Fraud and Compliance Directorate (CFCD) Local Service Investigation cases must be authorised and the RM1 completed using **[Redacted]**, and their own cost centre code.

35. The RM1 must then be sent to Shared Services at the following address:

**[Redacted]**

36. For more information regarding the RM1 and how to complete it, see [Purchase to Pay \(link is external\)](#) guidance and forms.

37. If you have any further problems with the payment of these expenses you can contact the **[Redacted]**

38. Witness expense forms for Serious and Organised Crime (SOC) must be authorised and then sent to CFCD SOC Support at the following address:

**[Redacted]**

39. CFCD CCI Support will be responsible for completing the RM1 and sending it to Shared Services.

## **06 Specimen Witness Statements- England and Wales**

Specimen witness statements are provided as a generic guide. It is of paramount importance that the investigation presents witness statements that relevantly describe the actions and circumstances of each case and the evidence pertaining to it.

Where two people of the same name and address are known, it may be appropriate to include the National Insurance Number (NINO).

Where the Local Authority is known to give direction for changes to be relayed in a specific manner, such as via a specified telephone number or address, this can usefully be included in the statement.

Where the DWP employee has left and is no longer available for the completion of a witness statement, an alternative may be provided by their line manager. An example of a format to support that can be found on the Intelligence Officer Continuity section.

### **Signatures**

A copy of an ink signed document, a document with a typed name in the signature section, or one with a pasted signature are all evidence of the document's authenticity, unless the other party can raise evidence that it is effectively forged.

### **Bank/Building Society**

#### **Capital fraud**

### **Statement of Bank/Building Society Administrator**

I am employed as a [STATE position] based in [INSERT name and address of bank or building society]. I am responsible for [INSERT brief description of duties].

I can confirm that an account numbered [ENTER bank account number] was held in the name [INSERT full name of claimant] of [INSERT full address] during the periods [INSERT period account was open].

I wish to exhibit as [INSERT exhibit number] account statements giving details of monies held in the account of [INSERT name of claimant] of [INSERT full address] during the period [DATE] to [DATE].

I wish to exhibit as [INSERT exhibit number] [INSERT document(s), such as, application form or other documents used in support of application to open account].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Excess capital - Statement of Decision Maker**

I am a Decision Maker working for the Department for Work and Pensions based in [STATE address of Office]. I am responsible for [INSERT brief description of duties].

On [DATE] I examined documents in relation to the claim for [INSERT name of benefit] for [INSERT name of claimant, national insurance number and date of birth] whose address is [INSERT full address held for claimant].

Having regard to the fact that whilst claiming benefit in the period from [DATE] to [DATE], [INSERT name of claimant] had savings in excess of £[ENTER prescribed limit], I adjudicated that [ENTER name of claimant] had been overpaid [INSERT name of benefit] in the sum of £[INSERT total overpaid].

I wish to exhibit as [INSERT exhibit number] the following documents [INSERT name of documents, such as, the overpayment decision, etcetera].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Investment Company Official**

I can confirm that [INSERT full name of claimant] of [INSERT full address] held the following investments [INSERT type of investments, such as, shares, Peps, ISA's etcetera] during the period [DATE] to [DATE].

The total value of the [INSERT type of investment] amounts to £[INSERT amount].

I wish to exhibit as [INSERT exhibit number] the following documents [INSERT name of document to be exhibited, such as, share certificates, statements, valuations, etcetera].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Carer's Allowance Rebuttal statement**

I am employed by the Department for Work and Pensions based at [INSERT Office]. My duties include investigating allegations of benefit abuse against the department.

A thorough check of the Carer's Allowance contact history (computer records of contacts) for [INSERT Name of claimant] has been made and I can confirm that there is no record of employment at [INSERT Name and address of company], starting in [INSERT Month/Year], being declared at any time after that date up to, and including, the date the Carer's Allowance payments ending on [INSERT Date].

I can confirm that had such information been received by the Department for Work and Pensions, Carer's Allowance payments would have been suspended and enquiries made into that employment.

**If appropriate** – include the following (for example):

There is a record of a phone call on the [INSERT Date] when [INSERT Name] telephoned to update her bank details. The next contact is a letter dated [INSERT Date] regarding [INSERT Name].

The information contained within this statement has been obtained from records compiled by Officers/Employees of the Department of Work and Pensions in the course of their duties from information supplied directly or indirectly by persons who had knowledge of the matters dealt with therein. All reasonable steps had been taken to identify the persons who supplied the information but either they cannot be found or cannot be reasonably expected to have any recollection of the matters dealt within that information.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Disability Living Allowance and Personal Independence Payment Fraud Statement of Investigating Officer following surveillance in Disability Living Allowance (DLA) and Personal Independence Payment (PIP) cases**

I am an Accredited Counter Fraud Specialist employed by the Department for Work and Pensions at [INSERT office and address].

My duties include the investigation of cases of alleged benefit fraud committed against the Department.

Following the receipt of information I made enquiries into the claim for [INSERT benefit] belonging to [INSERT claimant's name] whose National Insurance Number is [INSERT NINo] of [INSERT full address].

Authorisation was granted to carry out a surveillance exercise on [INSERT claimant's name] in order to determine whether criminal offences were being committed against the Department. A surveillance exercise was conducted during the period [DATE] to [DATE].

**If appropriate** – include the following for each observation date/time.

On the [INSERT date] at [INSERT venue] observations were carried out on [INSERT claimant's name]. [INSERT claimant's name] was observed [INSERT full description of the activities undertaken by claimant indicating the apparent ease or difficulty the claimant had in carrying out the activities].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

NOTE: QB50 notes, Observation Logs and any Video footage should be explained and observations described within the statement. The associated material should be attached to the submission for reference as need by the CPS.

### **Statement of Employer in DLA and PIP fraud cases**

I am employed as [INSERT position] based in [INSERT name and address of company]. I am responsible for [INSERT brief description of duties].

I can confirm that [INSERT name of claimant] of [INSERT claimant's address] has been employed by this company since [INSERT date employment commenced] as a [INSERT job description].

As part of [INSERT his / her] duties [INSERT claimant's name] was required to undertake the following tasks [INSERT detailed description of tasks undertaken by claimant and the apparent ease or difficulty claimant had in completing the tasks].

**If appropriate**, the employer to:

- provide details of any social events attended by the claimant or any sporting events which the claimant has taken part in.
- exhibit any documentation which casts doubt on the extent of the claimant's illness or disability, such as, a clean sick record or no illnesses or disabilities declared on job application forms

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Pensions, Disability and Carers Service (PDCS) Decision Maker**

The [ORG7 CP/NoCP WA \(link is external\)](#) / [ORG7W CP/No CP WA \(link is external\)](#) / [ORG7 Fraud WA \(link is external\)](#) / [Org7W Fraud WA \(link is external\)](#) and LT54 or equivalent, for example DBD810 for Disability Living Allowance or the PIP.7013 for Personal Independence Payment cases, are standalone documents and do not need to be exhibited by the investigator. Documents should, however, be attached to the email.

Generic Decision Makers Statements are not required from DWP, Her Majesty's Revenue and Customs (HMRC) or Local Authority (LA) sources, **unless** the evidence has been contested.

### **Sample statement:**

I am employed as a Disability Living Allowance Decision-Maker based at [INSERT office location].

My duties include [INSERT broad outline of duties performed].

Disability Living Allowance (DLA) is a tax-free social security benefit payable to people who have an illness or disability, and who need help with getting around or with personal care or both.

DLA is comprised of 2 components:

- The Mobility Component.
- The Care Component.

The Mobility Component is paid to people who have difficulty getting around. There are 2 rates:

The Higher Rate - In order to claim the Higher Rate component the claimant must prove one of the following criteria.

- that they have a physical disability that means they are unable, or virtually unable to walk.
- that they are both deaf and blind.
- that they were born without feet or are a double amputee.
- that they are severely mentally impaired, and have behavioural problems, and
- qualify for the highest rate of the DLA Care Component.

Signed ..... Date ...../...../.....

### **Continuation Statement of [INSERT name of witness]**

The Lower Rate - In order to claim the Lower Rate component the claimant must prove the following:

- That although they are capable of walking, they are so severely disabled (either physically or mentally), that they cannot walk outdoors in unfamiliar routes without guidance or supervision from another person for most of the time.

The Care Component is paid to people who have care or supervision needs. There are 3 rates:-

The Higher Rate - To qualify for the Higher Rate the claimant must be so severely disabled, either physically or mentally that they satisfy one of the following criteria:

That they require frequent attention throughout the day in connection with their bodily functions, or continual supervision throughout the day to avoid substantial danger to themselves, and, they require prolonged or repeated attention at night in connection with bodily functions, or in order to avoid substantial danger to themselves or others they require another person to be awake at night for a prolonged period or at frequent intervals for the purpose of watching over them.

They are terminally ill - Therefore, to receive the Higher Rate care component the claimant must have both daytime and night-time caring requirements, or must be terminally ill.

The Middle Rate - To qualify for the Middle Rate the claimant must be so severely disabled, either physically or mentally that they satisfy one of the following criteria:

- that they require frequent attention from another person throughout the day in connection with their bodily functions, or
- they require continual supervision throughout the day in order to avoid substantial danger to themselves or others; or
- they require prolonged or repeated attention at night in connection with their bodily functions; or
- they require another person to be awake at night for a prolonged period or at frequent intervals for the purpose of someone watching over them in order to avoid substantial danger to themselves or others.

Signed ..... Date ...../...../.....

### **Continuation Statement of [INSERT name of witness]**

The Lower Rate - To qualify for the Lower Rate the claimant must be so severely disabled, either physically or mentally that they satisfy one of the following criteria:



- that they are unable to prepare a cooked main meal for themselves; or
- that in connection with their bodily functions, they require attention from another person for a significant portion of the day.

I can confirm that [INSERT name of claimant] of [INSERT full address] made a claim to DLA on [INSERT claim date] by completing a form [INSERT name of form].

On the part of the form titled, 'How your illness or disability affects you,' [INSERT claimant's name] declared [INSERT a description of what the claimant has said/how their illness or disability affects their mobility].

On the part of the form titled, 'About help with personal care,' [INSERT claimant's name] declared [INSERT a description of what the claimant has said/how their illness or disability affects caring requirements].

As a result of this claim the claimant was awarded [INSERT the DLA mobility and care components as appropriate] from [ENTER date].

I can confirm that on [INSERT date] information was provided to me by [INSERT name of fraud unit]. Having regard to the fact that during the period [DATE] to [DATE] [INSERT name of claimant] was [INSERT full description of activities undertaken by the claimant during the relevant period] it was determined that [INSERT claimant's name] did not satisfy the conditions for claiming [INSERT the relevant DLA components].

As a result of not satisfying these conditions an overpayment of DLA has been recorded against [INSERT claimant's name] of [INSERT full address] in the sum of £[INSERT amount overpaid] during the period [DATE] to [DATE].

I wish to exhibit as [INSERT exhibit number] [INSERT document name and or DLA overpayment decision].

Signed ..... Date ...../...../.....

### **Continuation Statement of [INSERT name of witness]**

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Decision Maker statements**

#### **Statement of Re-Assessment Decision Maker**

I am a [INSERT job title] employed by the Department for Work and Pensions.

My duties include [INSERT broad outline of duties performed].

On [INSERT date] I examined documents in relation to the claim for [INSERT name of benefit] for [INSERT name of claimant, national insurance number and date of birth] whose address is [INSERT full address held for the claimant].

Having regard to the fact that whilst claiming benefit in the period from [DATE] to [DATE], [INSERT name of claimant] was in full-time employment [or alternatively the change of circumstances that resulted in the overpayment], I adjudicated that [INSERT full name of claimant] had been overpaid [INSERT name of benefit concerned] in the sum of [INSERT total overpaid].

I wish to exhibit the following documents:-

[INSERT details of the documents to be exhibited].



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 had been taken to identify the persons who supplied the information but either they cannot be found or cannot be reasonably expected to have any recollection of the matters dealt within that information.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

## **Full Process Statements**

### **Investigator**

I am an Investigator employed by the Department for Work and Pensions based at [INSERT location address].

My duties include the investigation of cases of suspected benefit fraud against the Department. Following the receipt of information I made enquiries into the circumstances surrounding the claim to benefit made by [INSERT name of claimant], whose National Insurance Number was given as [INSERT NINo] and whose address is [INSERT address].

**Explain** the claimant's reason for claiming the particular benefit – See also Appendix to Full Process Statements.

Subsequent reviews of entitlement to benefit were carried out upon receipt of review forms, [INSERT name of the review form completed immediately before the date of the reportable change] dated [DATE], [INSERT exhibit number] and form(s) [INSERT name of each review form completed during the overpayment period] dated [date] [exhibit number(s)].

Each claim and review form requires the claimant to provide information about their circumstances. The claimant completes a declaration on each claim form, which includes the following:

- I understand that if I knowingly give information that is incorrect or incomplete, I may be liable to prosecution or other action
- I understand that I must promptly tell the office that pays my benefit about anything that may affect my entitlement to, or the amount of that benefit
- I declare that the information I have given on this form is correct and complete as far as I know and believe.

**Include the following** if the benefit paid is Income Support or Jobseekers Allowance (Income Based):

- I have included all my income and savings

**Include the following** if form JSA4RR is used:

- There has been no change in my circumstances, except as declared on this form, since my last declaration for Jobseeker's Allowance purposes.

**Note:** This is the wording on the current versions of the forms, if earlier versions are used the declarations shown above may need to be amended

On the basis of the information contained in [INSERT name of claimant]'s claim[s], payment of [INSERT name of benefit(s)] was/were calculated and authorised.

**If benefit is paid by:**

- Automated Credit Transfer (ACT) - insert the following
- Between [DATE] and [DATE] payment of benefit was made by Automated Credit Transfer into the bank account of [INSERT Account Holder's Name].
- Cheque - insert the following:
- Between [DATE] and [DATE] payment of benefit was made by weekly/fortnightly/monthly cheque which were all payable to [INSERT name of claimant]
- Order book - insert the following

Between [DATE] and [DATE] payment of benefit was made to [INSERT claimant's name] by order book. The order books contained a section of yellow instruction pages that detailed all changes in circumstances that should be declared whilst claiming benefit.

**For Jobseekers Allowance benefit cases** insert the following:

Payment of benefit was made by cheque/Automated Credit Transfer bank on the basis that [INSERT name of claimant] attended at the Department's offices at [INSERT office address] and completed form ES24JP, [INSERT exhibit number].

He/she signed a declaration on the form, which included the following:

I declare that since I made a claim or last made a written declaration [if later]:

- there has been no change in circumstances which might affect the award of Jobseeker's Allowance, or the amount payable
- I have done no work, paid or unpaid, unless I have told you otherwise
- I have reported any changes in the circumstances of my dependants, if I claim Jobseekers Allowance for them
- the information I have given is correct and complete.

**Describe** what information/documents were sent to the claimant during the claim, which remind them what has to be reported such as: INF4s and ES40s

**Give** details of any visits to or by the claimant when they would have been given the opportunity to declare changes in their circumstances

[INSERT name of claimant] was/is required to notify the Department [INSERT details of reportable change relevant to the offence].

**Include the following in all statements:**

I have checked all the Department's records relevant to [INSERT name of claimant] and could find no notification of [INSERT details of the reportable change]. During this period the following changes were notified.

List changes reported and exhibit relevant screen prints or correspondence received from the claimant]

**NOTE:** You can only provide a statement to cover departmental records which you have viewed. If the records or any part thereof have been viewed by another person in DWP, they must present a statement and continuity of evidence must be shown

Had [INSERT name of claimant] informed the department that [INSERT details of the change the claimant failed to declare], no benefit or reduced rate would have been payable.

The total amount of overpaid [INSERT name of benefit[s]] paid to [INSERT name of claimant] from [DATE] to [DATE] was £[AMOUNT] and is set out in the overpayment letter [INSERT name of letter] and overpayment schedule.

At the commencement of the investigation against [INSERT name of claimant] I retrieved benefit file/s and checked the computer records for the claim:

State the records you have examined and if any documents could not be retrieved

**In cases involving cheques** the following paragraph should be inserted

On [DATE] I submitted a request to The Alliance and Leicester Bank / Santander. Following this request I received the following cheques [INSERT details of each cheque exhibited].

Show any other steps taken in the investigation such as details of surveillance undertaken. Surveillance logs and photographs taken during operations must be exhibited separately and in numerical order, for example, AB11, AB12, etcetera.

On [DATE] I interviewed [INSERT name of suspect] under caution. I produce the transcript of this interview as Exhibit number [INSERT exhibit number].

I also exhibit the following documents shown at the interview, [INSERT exhibits in numerical order any documents/exhibits not already detailed].

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.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Tax Credit fraud**

I am an Investigator employed by the Department for Work and Pensions based at [INSERT location address]

My duties include the investigation of cases of suspected Tax Credit fraud .

Following the receipt of information I made enquiries into the circumstances surrounding the claim to Tax Credits made by [INSERT name of claimant], whose National Insurance Number was given as [INSERT NINo] and whose address is [INSERT address]

#### **Choose either**

LT offence [INSERT name of claimant] claimed Tax Credits for herself and two children on the grounds that she was a single person with no-one living in her household other than herself and two children.

Child dependency offence: [INSERT name of claimant] claimed Tax Credits in respect of a child whom she was responsible for and that the child was treated as normally living with her

#### **Or insert appropriate reasons for TC claim appropriate to the offence**

Any Tax Credit award is effective from the date of claim or date it was treated as made until the end of the tax year to which it relates. The tax year runs from 6 April of any given year until 5 April of the following year.

An award of Tax Credits was made effective for [INSERT name of claimant] from (INSERT Start date of the award)

#### **Choose either**

##### **INSERT for normal renewal cases**

At the end of the tax year, A person claiming Tax Credits is issued with a TC603R (Annual Review), a TC603D (Annual Declaration) and form TC603RD notes asking them to confirm or correct their family circumstances as described in the notice and to declare their income in the tax year just ended by 31 July . This S17 notice is known as the annual declaration notice and the person's response is known as the annual declaration

The declaration part on the TC603D includes the following:-

I understand that:

- you may check the income information I have given with income information you already hold about me
- You will use the information on this form to decide the final amount of my tax credits award for CCYY–CCYY (dates of the previous tax year are inserted here for example, 2014 to 2015)
- This form is my claim to any tax credits due for CCYY– CCYY (dates of the new tax year are inserted here for example, 2015 to 2016) unless I've asked or agreed to be withdrawn from tax credits, or my award ceased in CCYY– CCYY (dates of the previous tax year are inserted here for example, 2014 to 2015)

If no declaration is received by 31 July, HMRC will make a final decision on the TC entitlement for the year that has just ended and the customer is issued with a system generated final decision notice for the year just ended and a statement of account notice TC607.

[INSERT name of claimant] provided annual declarations on (INSERT dates)

**Or**

**INSERT for Automatic renewal cases**

At the end of the tax year, A person claiming Tax Credits is sent a TC603R Auto (Annual Review) and TC603R notes The annual review form includes the following:-

We told you that we would be contacting you to review your tax credits award. We want to:

- make sure we paid you the correct amount for the award period shown above, and
- ask you to make a tax credits claim for CCYY–CCYY

**And**

We will decide on DD/MM/CCYY that:

- the final amount of your tax credits award for the period DD/MM/CCYY to DD/MM/CCYY is £

The level of your income meant that your award was reduced to nothing.

- Your tax credits award for CCYY–CCYY will be as shown in the payments section

**And**

**Warning**

If your details are not correct and we do not hear from you by DD/MM/CCYY, we will treat this annual review as correct and complete for the award period shown.

We will also regard you as having claimed tax credits for the year CCYY–CCYY based on this information. If you do not want this to happen, please write to us. If we later find this information was incorrect or incomplete, you may have to pay back any tax credits overpaid. You may also have to pay a penalty.

[INSERT name of claimant] Claim for Tax Credits was automatically renewed for (INSERT appropriate tax years)

On the basis of the information contained in [INSERT name of claimant]'s claim to tax credits and her annual statements, Tax Credits were awarded for:  
(INSERT Annual award periods and amounts)

These Tax Credits were made by automated credit transfer into the bank account of [INSERT account holder's name].

Under section 35 of the Tax Credits Act 2002 A person commits an offence if they are knowingly concerned in any fraudulent activity undertaken with a view to obtain payments of Tax Credits by him or another person

At the commencement of the investigation against [INSERT name of claimant] I obtained Tax Credit claim details

**Give details of any calls made to HMRC by the claimant when they could have been given the opportunity to declare changes in their circumstances.**

**Example**

HMRC Tax Credit records relevant to [INSERT name of claimant] have been checked and during this period the following changes were notified .....

**Show any other steps taken in the investigation such as details of surveillance undertaken. Surveillance logs and photographs taken during operations must be exhibited separately and in numerical order, for example, AB11, AB12.**

On [DATE] I interviewed [INSERT name of claimant] under caution. I produce the transcript of this interview as exhibit number [INSERT exhibit number].

I also exhibit the following documents shown at the interview, [INSERT exhibits in numerical order any documents/exhibits not already detailed].

**Example**

TC600 – Claim form dated DD/MM/YYYY – Exhibit?

Transcripts of telephone call reporting a change of circumstance regarding a change in childcare provider and costs dated DD/MM/YYYY – Exhibit?

Had [INSERT name of claimant] confirmed [INSERT details of the change) in her annual declaration, The Tax Credit annual award (s) would have been adjusted.

The total amount of Tax Credits overpaid paid to [INSERT name of claimant] for each appropriate tax year was (INSERT amount and tax years)

**Example**

Year	Original Award	Revised Award	Actual Overpayment
2013 to 2014			
2014 to 2015			
Total			

Details of the award and overpayment were set out in writing in the manual award notices dated (INSERT dates) and issued to [INSERT name of claimant]

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.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

**Tax credit and DWP SS benefit fraud**

I am an Investigator employed by the Department for Work and Pensions based at [INSERT location address]

My duties include the investigation of cases of suspected benefit and Tax Credit fraud.

Following the receipt of information I made enquiries into the circumstances surrounding the claim to (INSERT DWP benefit, for example Income Support ) and Tax Credits made by [INSERT name of claimant], whose National Insurance Number was given as [INSERT NINo] and whose address is [INSERT address]

**Choose either**

LT offence [INSERT name of claimant] claimed (INSERT DWP benefit, for example Income Support) and Tax Credits for herself and two children on the grounds that she was a single person with no-one living in her household other than herself and two children.

Child dependency offence: [INSERT name of claimant] claimed (INSERT DWP benefit for example, Income Support) and Tax Credits in respect of a child whom she was responsible for and that the child was treated as normally living with her

**Or insert appropriate reasons for DWP TC claim appropriate to the offence**

**Tax Credit**

Any Tax Credit award is effective from the date of claim or date it was treated as made until the end of the tax year to which it relates. The tax year runs from 6 April of any given year until 5 April of the following year.

An award of Tax Credits was made effective for [INSERT name of claimant] from (INSERT Start date of the award)

**Choose either**

**INSERT for normal renewal cases**

At the end of the tax year a person claiming Tax Credits is issued with a TC603R (annual review), a TC603D (annual declaration) and form TC603RD notes asking them to confirm or correct their family circumstances as described in the notice and to declare their income in the tax year just ended by 31 July. This S17 notice is known as the annual declaration notice and the person's response is known as the annual declaration

The declaration part on the TC603D includes the following:-

I understand that:

- you may check the income information I have given with income information you already hold about me
- You will use the information on this form to decide the final amount of my tax credits award for CCYY–CCYY (dates of the previous tax year are inserted here for example 2014 to 2015)
- This form is my claim to any tax credits due for CCYY–CCYY (dates of the new tax year are inserted here for example, 2015 to 2016) unless I've asked or agreed to be withdrawn from tax credits, or my award ceased in CCYY–CCYY (dates of the previous tax year are inserted here for example 2014 to 2015)

If no declaration is received by 31 July, HMRC will make a final decision on the TC entitlement for the year that has just ended and the customer is issued with a system generated final decision notice for the year just ended and a statement of account notice TC607.

[INSERT name of claimant] provided annual declarations on (INSERT dates)

**Or**

**INSERT for Automatic renewal cases**

At the end of the tax year, A person claiming Tax Credits is sent a TC603R Auto (annual review) and TC603R notes The annual review form includes the following:-

We told you that we would be contacting you to review your tax credits award. We want to:

- make sure we paid you the correct amount for the award period shown above, and
- ask you to make a tax credits claim for CCYY–CCYY

**And**

We will decide on DD/MM/CCYY that:

- the final amount of your tax credits award for the period DD/MM/CCYY to DD/MM/CCYY is £.

The level of your income meant that your award was reduced to nothing.

- Your tax credits award for CCYY–CCYY will be as shown in the payments section

**And**

**Warning**

If your details are not correct and we do not hear from you by DD/MM/CCYY, we will treat this annual review as correct and complete for the award period shown.



We will also regard you as having claimed tax credits for the year CCYY–CCYY based on this information.

If you do not want this to happen, please write to us. If we later find this information was incorrect or incomplete, you may have to pay back any tax credits overpaid. You may also have to pay a penalty.

[INSERT name of claimant] Claim for Tax Credits was automatically renewed for (INSERT appropriate tax years)

On the basis of the information contained in [INSERT name of claimant]'s claim to Tax Credits and her annual statements, Tax Credits were awarded for:  
(INSERT annual award periods and amounts)

### Example

Year	Award
2013 to 2014	
2014 to 2015	

### Insert DWP benefit, for example Income Support

Each DWP claim and review form requires the claimant to provide information about their circumstances. The claimant completes a declaration on each claim form, which includes the following:

- I understand that if I knowingly give information that is incorrect or incomplete, I may be liable to prosecution or other action
- I understand that I must promptly tell the office that pays my benefit about anything that may affect my entitlement to, or the amount of that benefit
- I declare that the information I have given on this form is correct and complete as far as I know and believe

### Include the following if the benefit paid is Income Support or Jobseekers Allowance (Income Based):

- I have included all my income and savings

### Note: This is the wording on the current versions of the forms, if earlier versions are used the declarations shown above may need to be amended

On the basis of the information contained in [INSERT name of claimant]'s claim[s], payment of [INSERT name of benefit(s)] was/were calculated and authorised.

Tax Credits and (INSERT: DWP benefits) were made by automated credit transfer into the bank account of [INSERT account holder's name].

[INSERT name of claimant] was/is required to notify the Department (INSERT details of reportable change relevant to the offence) and under section 35 of the Tax Credits Act 2002.

A person commits an offence if they are knowingly concerned in any fraudulent activity undertaken with a view to obtain payments of Tax Credits by him or another person

I have checked all the department's records relevant to [INSERT name of claimant] and could find no notification of [INSERT details of the reportable change].

During this period the following changes were notified to DWP or HMRC.



**List changes reported and exhibit call or correspondence received from the claimant and give details of any calls made to HMRC by the claimant when they could have been given the opportunity to declare changes in their circumstances**

**Example**

Had [INSERT name of claimant] informed the department that [INSERT details of the change the claimant failed to declare], no (INSERT DWP benefit) or a reduced rate would have been payable.

The total amount of overpaid [INSERT name of benefit[s]] paid to [INSERT name of claimant] from [DATE] to [DATE] was £[AMOUNT] and is set out in the overpayment letter [INSERT name of letter] issued to (INSERT name of claimant) on (INSERT Date)

Had [INSERT name of claimant] confirmed [INSERT details of the change] in her annual declaration, The Tax Credit annual award (s) would have been adjusted.

The total amount of Tax Credits overpaid paid to [INSERT name of claimant] for each appropriate Tax year was (INSERT amount and tax years).

**Example**

Year	Original Award	Revised Award	Actual Overpayment
2013 to 2014			
2014 to 2015			
Total			

Details of the award and overpayment were set out in writing in the manual award notices dated (INSERT dates) and issued to [INSERT name of claimant]

The total amount of (INSERT DWP benefit) and Tax Credits overpaid to [INSERT name of claimant] was (INSERT DWP and Tax Credit total amount)

At the commencement of the investigation against [INSERT name of claimant] I obtained Tax Credit claim details and I retrieved benefit file/s and checked the computer records for the DWP benefit claim:

**State the records you have examined and if any documents could not be retrieved. Show any other steps taken in the investigation such as details of surveillance undertaken. Surveillance logs and photographs taken during operations must be exhibited separately and in numerical order, for example, AB11, AB12.**

On [DATE] I interviewed [INSERT name of claimant] under caution. I produce the transcript of this interview as Exhibit number [INSERT exhibit number].

I also exhibit the following documents shown at the interview, [INSERT exhibits in numerical order any documents or exhibits not already detailed].

**Example**

TC600 – Claim Form Dated DD/MM/YYYY – Exhibit?

Transcripts of telephone call reporting a change of circumstance regarding a change in childcare provider and costs dated DD/MM/YYYY – Exhibit?

A1 – Claim form dated DD/MM/YYYY – Exhibit?

The information contained within this statement has been obtained from records compiled by officers and or 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.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Nominated Officer Statement**

I am employed by the Department for Work and Pensions. My duties include [GIVE brief job description, such as, dealing with changes in circumstances where benefits are in payment and determination of the amount and recoverability of overpaid benefits].

**Explain** the claimant's reason for claiming the particular benefit – See also [Appendix to Full Process Statements](#)

Subsequent reviews of entitlement to benefit were carried out upon receipt of review forms, [INSERT name of the review form completed immediately before the date of the reportable change] dated [INSERT date], [INSERT exhibit number].and form(s) [INSERT name of each review form completed during the overpayment period] dated [DATE], [INSERT exhibit number(s)]. Each claim and review form requires the claimant to provide information about their circumstances. The claimant completes a declaration on each claim form, which includes the following:

- I understand that if I knowingly give information that is incorrect or incomplete, I may be liable to prosecution or other action
- I understand that I must promptly tell the office that pays my benefit about anything that may affect my entitlement to, or the amount of that benefit
- I declare that the information I have given on this form is correct and complete as far as I know and believe.

**Include** the following if the benefit paid is Income Support or Jobseekers Allowance (Income Based):

- I have included all my income and savings

**Include** the following if form JSA4RR is used:

- there has been no change in my circumstances, except as declared on this form, since my last declaration for Jobseeker's Allowance purposes.

**Note:** This is the wording on the current versions of the forms, if earlier versions are used the declarations shown above may need to be amended

On the basis of the information contained in [INSERT name of claimant]'s claim[s], payment of [INSERT name of benefit(s)] was/were calculated and authorised.

**Insert** the following when benefit is paid by ACT:

Between [DATE] and [DATE] Payment of benefit was made by Automated Credit Transfer into the bank account of [INSERT Account Holder's Name].

**Insert** the following if payment was made by cheque:

Between [DATE] and [DATE], payment of benefit was made by weekly/fortnightly/monthly cheque which were all payable to [INSERT name of claimant].

**Insert** the following if payment was paid by order book:

Between [DATE] and [DATE] payment of benefit was made to [INSERT claimant's name] by order book. The order books contained a section of yellow instruction pages that detailed all changes in circumstances that should be declared whilst claiming benefit.

**Insert** the following where Jobseekers Allowance was in payment

Payment of benefit was made by cheque/Automated Credit Transfer bank on the basis that [INSERT name of claimant] attended at the Department's offices at [INSERT office address] and completed form JSA 24 or ES24 [INSERT exhibit number(s)]. He/she signed a declaration on the form, which included the following:

I declare that since I made a claim or last made a written declaration (if later):

- there has been no change in circumstances which might affect the award of Jobseeker's Allowance, or the amount payable
- I have done no work, paid or unpaid, unless I have told you otherwise
- I have reported any changes in the circumstances of my dependants, if I claim Jobseekers Allowance for them
- the information I have given is correct and complete.

**Describe** what information/documents were sent to the claimant during the claim, which remind them what has to be reported such as: INF4s and ES40s

**Give** details of any visits to or by the claimant when they would have been given the opportunity to declare changes in their circumstances  
[INSERT Name of claimant] was/is required to notify the Department

[INSERT details of reportable change relevant to the offence, for example, that he had started work].

**Include** the following in all statements

I have checked all the Department's records relevant to [INSERT name of claimant] and could find no notification of [INSERT details of reportable change].

Had [INSERT name of claimant] informed the department that [INSERT details of the change the claimant failed to declare] no benefit or a reduced rate would have been payable.

On [INSERT date of decision] a decision that [INSERT name of benefit concerned] in the sum of £[INSERT total overpayment] had been overpaid to [INSERT claimant's name] whose National Insurance Number was given as [INSERT NINO] and that the sum was recoverable from him/her.

On [INSERT date of overpayment letter] a letter was sent to [INSERT defendant's full address] this being the last known address advising that he/she had been overpaid and that this sum was recoverable from [INSERT claimant's full name].

A Decision Maker based at [INSERT office location] has produced the following:

- Decision dated {Date} based relating to overpaid benefit in the period from [DATE] to [DATE] as exhibits [INSERT exhibit number(s)].
- The summary of overpayment for the same period as exhibit [INSERT exhibit number].
- Overpayment recoverability letter addressed to [INSERT defendant's full name].

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.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

## **Appendix to Full Process Statements**

Examples of benefit claims relevant to fraud types

### ***Failure to declare employment while claiming Jobseeker's Allowance***

[INSERT name of claimant] claimed Jobseeker's Allowance on [INSERT date] for himself and his partner by completing form JSA 1 on [INSERT date] [INSERT exhibit number], on the grounds that neither he, nor his partner, did any form of work or had any income.

### ***Failure to declare employment while claiming Incapacity Benefit***

[INSERT name of claimant] claimed Incapacity Benefit on [INSERT date] [INSERT exhibit number] on the grounds he did no form of work and was incapable of doing any work due to ill health.

### ***Failure to declare a partner [Living Together As a Married Couple case]***

[INSERT name of claimant] claimed income support on [INSERT date] [INSERT exhibit number] for herself and two children on the grounds that she had no income other than child tax credit and that no-one lived in her household other than herself and two children.

### ***Failure to declare savings***

[INSERT name of claimant] claimed income support on [INSERT date] [INSERT exhibit number] on the grounds that she was incapable of work due to ill health, and had no income or savings.

## **Incapacity Benefit Fraud**

### **Statement of Investigator following surveillance**

I am an Accredited Counter Fraud Specialist employed by the Department for Work and Pensions at [INSERT office and address].

My duties include the investigation of cases of alleged benefit fraud committed against the Department.

Following the receipt of information I made enquiries into the claim for Incapacity Benefit (IB) belonging to [INSERT claimant's name] whose National Insurance Number is [INSERT NINo] of [INSERT full address].

Authorisation was granted to carry out a surveillance exercise on [INSERT claimant's name] in order to determine whether criminal offences were being committed against the Department. A surveillance exercise was conducted during the period [DATE] to [DATE].

**If appropriate** include the following for each observation date/time.

On the [INSERT date] at [INSERT venue] observations were carried out on [INSERT claimant's name]. [INSERT claimant's name] was observed [INSERT full description of the activities undertaken by claimant indicating the apparent ease or difficulty the claimant had in carrying out the activities].

I wish to exhibit as [INSERT exhibit number] the [INSERT details, for example, observation logs, official notebook notes, video footage/photographs].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Employer**

I am employed as [INSERT position] based in [INSERT name and address of employer]. I am responsible for [INSERT brief description of duties].

I can confirm that [INSERT name of claimant] of [INSERT claimant's address] has been employed by this company since [INSERT date employment commenced] as a [INSERT job description].

As part of [INSERT his / her] duties [INSERT claimant's name] was required to undertake the following tasks [INSERT detailed description of tasks undertaken by claimant and the apparent ease or difficulty claimant had in completing the tasks].

**If appropriate** employer to provide details of any social events attended to by claimant or any sporting events which claimant has taken part in.

**If appropriate** employer to exhibit any documentation which casts doubt on the extent of claimant's illness or disability (such as, a clean sick record, or no illnesses or disabilities declared on job application form).

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Incapacity Benefit Decision Maker**

I am employed as an Incapacity Benefit Decision Maker based at [INSERT office location].

My duties include [INSERT broad outline of duties performed].

Incapacity Benefit (IB) is a benefit that is paid to people who have been assessed as being incapable of work due to illness and have either paid or been credited with sufficient national insurance contributions.

IB is paid at three rates.

- The Lower Rate of short-term IB is paid for the first 28 weeks of entitlement.
- The Higher Rate is paid after 28 weeks of entitlement to IB.
- Long-Term IB is paid after 52 weeks of entitlement.

I can confirm that [INSERT name of claimant] of [INSERT full address] made a claim to IB on [INSERT claim date] by completing a form [INSERT name of claim form and any sick notes in support of the claim]. The claim to IB was made on the basis that [INSERT claimant's name] was incapable of working due to [INSERT nature of incapacity].

I can confirm that on [INSERT date] information was provided to me by [INSERT name of fraud unit]. Having regard to the fact that during the period [DATE] to [DATE], [INSERT name of claimant] was not incapable of working because [INSERT full details of activities undertaken by the claimant during the relevant period] it was determined that [INSERT claimant's name] did not satisfy the conditions for claiming IB.

As a result of not satisfying the benefit conditions an overpayment of IB has been recorded against [INSERT claimant's name] of [INSERT full address] in the sum of £ [INSERT amount overpaid] during the period [DATE] to [DATE].

I wish to exhibit as [INSERT exhibit number] [INSERT document name and/or IB overpayment letter/decision].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Instrument of payment (IOP) fraud**

#### **Initial loss or non-receipt statement by Department for Work and Pensions staff**

I am employed as a [INSERT position] based at [INSERT name and address of DWP/JCP office]. I am responsible for [INSERT brief description of duties].

I can confirm that on [INSERT date], [INSERT name of claimant] of [INSERT full address] attended [INSERT benefit office] and reported that he/she had [INSERT not received / lost] the benefit cheque serial numbered [INSERT serial number of cheque] issued on [INSERT date] in the sum of £[INSERT value of cheque].

[INSERT name of claimant] completed a form [INSERT name of form in which he/she declared that he/she had not received / lost] cheque, serial numbered [INSERT serial number].

As a result of declaring that he/she had [INSERT not received / lost] the cheque a [INSERT either a replacement cheque was not given or a replacement cheque was given on [date]], [INSERT serial of replacement cheque number and value].

I wish to exhibit as [INSERT exhibit number] the form [INSERT initial loss form].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Finance Officer**

I am employed as a [INSERT position] based in [INSERT name and address of DWP/JCP office]. I am responsible for [INSERT brief description of duties].

I can confirm that on [INSERT date] a benefit cheque serial numbered [INSERT serial number of original benefit cheque] in the sum of £[INSERT value of cheque] was sent to, [INSERT name of claimant] of [INSERT full address].

As a result of the above cheque being reported as [INSERT not received or lost] a replacement cheque serial numbered [INSERT serial number] was issued to [INSERT full name of claimant] in the sum of £[INSERT value of cheque] on [INSERT date].

I can confirm that the cheque serial numbered [INSERT serial number of original cheque] was [INSERT cashed / cleared] at [INSERT name of post office or financial institution cheque cleared through] on [INSERT date cheque cashed or cleared].

I wish to exhibit as [INSERT exhibit number] the cheque serial numbered [INSERT serial number of original cheque].

I wish to exhibit as [INSERT exhibit number] the cheque serial numbered [INSERT serial number of replacement cheque].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.



I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Post Master**

I am employed as a [INSERT position] based in [INSERT name and address of post office]. I am responsible for [INSERT brief description of duties].

I can confirm that on [INSERT date] a benefit cheque serial numbered [INSERT serial number of original benefit cheque] in the sum of £[INSERT value of cheque] was presented for encashment at this Post Office. The cheque was paid and cash in the sum of £[INSERT value of cheque] was handed to the cheque payee who was believed to be [INSERT name of claimant].

#### **If:**

- the cheque was not cashed a paragraph to this effect should be included in the statement.
- identification was used to cash the cheque a paragraph to this effect should be included in the statement.
- the post master can recall a description of the claimant (or if he knows the claimant) a paragraph to this effect should be included in the statement.
- there is video/CCTV footage of the transaction/claimant the footage should be exhibited to this statement.

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Bank/Financial Institution Official when cheque paid through an account**

I can confirm that on [INSERT date] a benefit cheque serial numbered [INSERT serial number of original benefit cheque] in the sum of £ [INSERT value of cheque] and in the name of [INSERT name of payee on cheque/claimant] was deposited into the account belonging to [INSERT name of the account holder] of [INSERT full address of the account holder]. The account reference number is [INSERT account reference number].

The above account was opened on [INSERT date account opened].

If monies to the value of the cheque were drawn from the account a paragraph to this effect should be included in the statement.

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Cheque Cashing Shop employee**

I am employed as a [INSERT position] based in [INSERT name and address of cheque cashing shop]. I am responsible for [INSERT brief description of duties].



I can confirm that on [INSERT date] a benefit cheque serial numbered [INSERT serial number of original benefit cheque] in the sum of £[INSERT value of cheque] and in the name of [INSERT name of payee on cheque/claimant] was presented for encashment at [INSERT name of cheque cashing shop].

The cheque was cleared and payment in cash in the sum of £[INSERT amount] was made to [INSERT name of claimant] who was believed to be the cheque payee.

The sum of £[INSERT amount] was retained as commission for the transaction.

The above account was opened on [INSERT date account opened].

**If**

- identification was required by the cheque cashing shop to process the transaction a paragraph to this effect should be included in the statement.
- video/CCTV footage of the transaction is available this evidence should be exhibited to the statement.

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

## **Intelligence Officer Continuity**

## **Intelligence Officer Continuity**

A continuity statement is only required in the instance of a rebuttal being dealt with and the evidence being contested. There may however, be instances where a continuity statement is specifically requested by a lawyer and then this must be supplied at pace

### **Statement of Intelligence Officers access to I.T. system**

**Amend as necessary.**

**Enter relevant Dates/Text in brackets below.**

**Delete Bold type and link below.**

**Link to continuity of evidence guidance**

<https://intranet.dwp.gov.uk/manual/fraud-instructions/continuity-evidence>

I am employed as an Intelligence Officer by the Department For Work and Pensions (DWP) I have been employed by DWP for over **[Insert number of years]** years and in my current capacity for **[Insert number of years or months]** years/months **[delete as appropriate]**.

My duties include the collection of intelligence from third parties relating to benefit fraud.

I have access to information contained within the **[Insert name of system]** I.T. system. This system holds information relating to **[Insert description of what the system holds]**.

On **[Insert date]** I accessed the **[Insert name of system]** and retrieved information relating to **[Insert name /DOB/ Address etc of person information relates to]**. I saved information to the file **[Insert name of file]** {Ref No..... Exh No.....}.

**OR** I took screen prints {Ref No.... Exh No.....} I saved the prints to the file **[Insert file name]**.

**OR** On **[Insert date]** I accessed the **[Insert name of system]** and retrieved a recording of a telephone call made on **[Insert Date]** from a caller using the telephone number **[Insert telephone number]** I saved the call to the file **[Insert file name]** {Ref No.....Exh No.....}.

The call started at **[Insert time]** and ended at **[Insert time]**, the call relates to a claim to **[Insert benefit type]** in respect of **[Insert name/DOB/NINO of benefit claimant]**.

On **[Insert date]** I sent the file **[Insert name of file]** to **[Insert name of Investigator]** via **[Email, Shared Folder, FRAIMs, etc]**.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### Statement of Intelligence Officers access to Open Source

**Amend as necessary.**

**Enter relevant Dates/Text in brackets below.**

**Delete Bold type and link below.**

**Link to continuity of evidence guidance**

<https://intranet.dwp.gov.uk/manual/fraud-instructions/continuity-evidence>

I am employed by the Department for Work and Pensions, Serious and Organised Crime as a Criminal Intelligence Officer on the Internet Desk.

My job role is to gather Open Source Intelligence from the internet in response to requests from investigators. I have carried out this role since **[Insert DATE]**

On **[Insert DATE]** I was requested by DWP Fraud Investigator **[Insert FI NAME]** to obtain any relevant open sourced information from the sites **[Insert site names]** for a person named as **[Insert NAME]** and a person named as the partner **[Insert NAME]**.

**OR**

On **[Insert DATE]** I was requested by DWP Fraud Investigator **[Insert FI NAME]** to obtain any relevant open sourced information for a person named as **[Insert NAME]** and a person named as the partner **[Insert NAME]**.

All information was accessed as public domain information.

On **[Insert DATE]** I confirmed via online checks that a person named **[Insert NAME]** and a person named **[Insert NAME]** held Facebook accounts. (include any other sites supplied).

I downloaded information from the accounts to a Compact Disc {Ref No.... Exh No....} on **[Insert DATE]**.

The compact disc may contain 3rd party information not connected with the ongoing investigation.

The compact disc which once burned cannot be altered, was held securely until the compact disc was posted via secure fully tracked TNT post to **[Insert FI NAME]** on **[Insert Date]**.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### Statement of Intelligence Officers for Bank Continuity

**Amend as necessary.**

**Enter relevant Dates/Text in brackets below.**

**Delete Bold type and link below.**

**Link to continuity of evidence guidance**

<https://intranet.dwp.gov.uk/manual/fraud-instructions/continuity-evidence>

I am employed as an Intelligence Officer by the Department For Work and Pensions (DWP) I have been employed by DWP for over **[Insert number of years]** years and in my current capacity for **[Insert number of years or months]** years/months **[delete as appropriate]**. My duties include the collection of intelligence from third parties relating to benefit fraud.

On **[Insert Date]** I received from **[Insert Name of person evidence received from]** of **[Name of financial institution]** a bank statement {Ref No..... Ex No.....} in the name of **[Insert Name of account holder]**.

The bank statement was received via the DWP Mail, Opening, Scanning and Image Circulation {MOSAIC} system **[Or Insert medium e.g. e mail, post etc.]** and consisted of **[Insert number of pages]** pages. The bank statement was in an **[Insert file type e.g. MS Excel, Adobe pdf etc.]** format. The bank statement was held within the DWP MOSAIC data repository.

On **[Insert Date]** I examined the transactions contained in the bank statement. At no time were any changes made to the contents of the bank statement. I sent the bank statement to

**[Insert Investigator name]** via the DWP MOSAIC system **[Or Insert method of transfer e.g. via the Government secure intranet e mail system/internal DWP mail system]**.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

#### **Statement of Team Leader when the officer is no longer available.**

**Amend as necessary.**

**Enter relevant Dates/Text in brackets below.**

**Delete Bold type.**

I am employed as an **[insert title]** by the Department for Work and Pensions (DWP). I have been employed by the DWP for **[insert number of years]** and in my current capacity for **[insert years/months]**.

I can state that DWP Records show that on **[Insert date]** a DWP Intelligence Gathering Officer **[insert name]** whose duties included the collection of intelligence from third parties relating to benefit fraud, in response to a DWP request, received from **[insert name of financial institution]** a bank statement in the name of **[Insert Name of account holder]** and relating to the account **[insert sort code and account number]**.

**[insert name]** is no longer employed by DWP and could not be contacted.

The bank statement was received via the DWP Mail, Opening, Scanning and Image Circulation {MOSAIC} system **[Or Insert medium e.g. e mail, post etc.]** and consisted of **[Insert number of pages]** pages. The bank statement was in an **[Insert file type e.g. MS Excel, Adobe pdf etc.]** format. The bank statement was held within the DWP MOSAIC data repository.

On **[Insert Date]** the Intelligence gathering officer examined the transactions contained in the bank statement. The bank statement was sent to **[Insert Investigator name]** via the DWP MOSAIC system **[Or Insert method of transfer e.g. via the Government secure intranet e mail system/internal DWP mail system]**.

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 contact **[insert IGO]** 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.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

#### **Interview Under Caution Officer Statements**

##### **Statement of Officer in Charge/Interview Under Caution Officer**

I am an Accredited Counter Fraud Specialist employed by the Department for Work and Pensions based at **[INSERT office location]**.

My duties include the investigation of cases of alleged benefit fraud against the Department. Following the receipt of information I made enquiries into the circumstances surrounding the claim to benefit made by **[INSERT name of claimant]**, whose National Insurance Number was given as **[INSERT NI No]** and whose address is **[INSERT address]**.

I retrieved the benefit claim file and extracted the following documents:

(in the list the investigator should include the relevant claim documents, for example, ES24's, JSA1, A1, order book or specimen. Each document should be given an exhibit number).

**In cases involving paid orders** the following paragraph should be inserted.

On **[INSERT date]** I submitted a request to our paid order storage unit at Lisahally. Following this request I received the following paid orders **[INSERT these as a list with the appropriate exhibit number]**

**In cheque cases** the same paragraph as above but the request would be made to Santander

On [INSERT date] I interviewed [INSERT name of claimant] under caution. I produce the transcript of this interview as [INSERT appropriate exhibit number]. I also produce form QB1B as [INSERT appropriate exhibit number] and form QB1C as [INSERT appropriate exhibit number].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of second Interview Under Caution Officer**

I am an Accredited Counter Fraud Specialist employed by the Department for Work and Pensions based at [INSERT office location].

My duties include the investigation of cases of alleged benefit fraud against the Department.

On [INSERT date of Interview Under Caution] I was present at the interview of [INSERT name of defendant with national insurance number and date of birth] at [INSERT place of interview].

I have read a transcript of this interview exhibited as [INSERT number of the exhibit] and can confirm that it is an accurate and complete record.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend Court if necessary.

### **Living together as a married couple fraud**

#### **Statement of a neighbour**

I know the people living at [Insert address] by the name of [Insert name of claimant and spouse/partner] and have understood them to be living together as a married couple from this address for [INSERT period living together as a couple].

If witness knows that the claimant and partner, do they:

- socialise together, and/or
- take holidays together.

a paragraph to this effect should be included in the statement.

**Note:** Consider the addition of specific details of what the witness has seen, but **do not lead into a risk of CHIS.**

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

**Note:** Include the current address of the witness on the MG11 part 2. Make sure that they fully understand they could be called as a witness.

#### **Statement of a School Official**

I am employed as a [INSERT position] based in [INSERT name and address of school]. I am responsible for [INSERT brief description of duties].

I can confirm that [INSERT name of children] have been attending [INSERT name of school] since [ENTER date]. The children(s) mother is known to me as [INSERT name of claimant] and their father/partner is known to me as [INSERT name of spouse or partner].

I can confirm from school records that both parents are said to be residing at [INSERT claimant's address].

**If witness** can confirm that both parents attend school together for extra-curricular activities or parents' evenings a paragraph to this effect should be included in the statement.

I wish to exhibit as [INSERT exhibit number] the [INSERT school document that puts both parents at the same address].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the

persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of a Bank or Loan Company Official**

I am employed as a [INSERT position] based in [INSERT name and address of bank or loan company]. I am responsible for [INSERT brief description of duties].

I can confirm that on [INSERT date] an application for a [INSERT loan, credit or mortgage etcetera] was received from [INSERT name of spouse or partner and claimant if a joint application] of [INSERT full address].

The application was [INSERT accepted or rejected] and a [INSERT loan, credit, overdraft or mortgage] was made to [INSERT name of spouse or partner and claimant if joint application] of [INSERT full address] in the sum of [INSERT amount].

The [INSERT loan, credit or mortgage] is being repaid by way of [INSERT direct debit, standing order, cheque or cash] by [INSERT name of spouse or partner or claimant] at the rate of £[INSERT each week or month].

I can confirm that [INSERT weekly, monthly or quarterly] statements are sent to [INSERT name of spouse or partner or claimant] at [INSERT full address].

I wish to exhibit as [INSERT exhibit number] the [INSERT document type, such as, loan application form, supporting documents and or account statements].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Employer**

I am employed as a [INSERT position] based in [INSERT name and address of employer]. I am responsible for [INSERT brief description of duties].

I can confirm that according to company records [INSERT name of claimant's spouse/partner] commenced employment with this company on [INSERT date]. According to company records [INSERT name of claimant's spouse/partner] has been living at [insert address] since [INSERT date].

**If the employer** can confirm that:

- a death benefit nominee form has been completed in favour of the claimant a paragraph to this effect should be included in the statement.
- the employee attends social events with the claimant a paragraph to this effect should be included in the statement.
- the employee is picked up or dropped off at the claimant's address a paragraph to this effect should be included in the statement.

I wish to exhibit as [INSERT exhibit number] the [INSERT document name, such as, employment application form, death benefit nominee].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be

expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Local Authority Witness Statement Statement of Local Authority to exhibit**

I am employed by [insert Name & Address of Council]. I have been employed since [insert date/year] and have held my current role since [insert date]. My current role and area of responsibility is [insert Job Title & list main responsibilities] in respect of Housing Benefit and Council Tax Benefit [delete if not applicable]. I make this statement from my own experience and from information obtained from the records of the Local Authority benefits office.

Information has been received from the Department for Work and Pensions (DWP) which questions the legitimacy of the [insert Benefit Type] claims made by [insert Customers Name] of [insert Customers Address] indicating that [insert Offence details].

Housing Benefit and Council Tax Benefit [delete if not applicable] [is/are] means tested benefit/s and [is/are] administered by the Local Authority [it is/they are] designed to assist people on low income to pay their rent charge for the property where they live [delete if not applicable, and to assist with the Council Tax liability charge for the same property].

In order to receive benefit a person must submit an application form to the Local Authority and include all their income, capital and full household composition details. This will enable an assessment and determination of the level of benefit required, based on the information supplied in the claim forms.

The application forms provide explanatory notes to assist the applicant regarding what information is required to enable a correct assessment to be carried out.

The customer is required to [insert sign a declaration or insert different details if other methods are used such as e-claims where the claimant does not actually sign the declaration] on the applications for benefit that states the information provided is true and complete and they understand that any changes in their circumstances must be reported to the appropriate department.

[Insert Customers Name] claimed [insert Benefit Type] benefit from [insert date] to [insert date].

The claim was assessed based on the information provided by [insert Customers Name] within the application form and any supporting documents provided during the application process, namely that [include pertinent details of customer's household and income status. Please also detail any relevant changes in circumstances that were reported during the period of the claim, which resulted in changes to the amount of benefit paid to the customer].

I wish to produce the following documents as exhibits:

[Insert exhibits here including claim forms /change of circs reports etc.]

As a result of the investigation into the claims to benefit made by [insert Customers Name], a reassessment of [insert Benefit Type] has taken place. This has resulted in an overpayment of [insert amount of overpayment] for the period [insert dates of overpayment]. This decision was made under [insert details of the Legislation used to make the decision].

The total loss to [insert Name of Council] Council is £ [insert amount].

The information contained within this statement has been obtained from records compiled by officers / employees of [insert Name of Council] Local Authority, in the course of their duties, from information supplied directly 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.

I can confirm that in order to make this statement, I have thoroughly checked [insert LA name] council benefit records in respect of [insert customers name] and believe that this is an accurate representation of [his/her] claim history during the period of the overpayment.

I am prepared for this statement to be used in criminal proceedings and I am prepared to attend court if necessary

### **Statement of local authority for rebuttal**

I am employed by [insert Name & Address of Council]. I have been employed since [insert date/year] and have held my current role since [insert date]. My current role and area of responsibility is [insert Job Title & list main responsibilities] in respect of Housing Benefit [delete if not applicable, and Council Tax Benefit]. I make this statement from my own experience and from information obtained from the records of the Local Authority benefits office.

[Insert LA name] follows a specific process when information is received either by post, electronically or by telephone. [Insert details of LA processes for making electronic written records of phone contact, processes for scanning and storage of electronic storage of paper documents of storage of email contact]. These documents cannot be altered or deleted in error once stored, to ensure that records remain accurate.

Following a request by the Department for Work and Pensions Counter Fraud and Compliance Directorate, I have checked all relevant Computer/Clerical records [delete as applicable] held by [insert LA Name] in relation to [insert customers name] and could find no notification of [insert details of the reportable change].

[If applicable, insert details of any purged information during the period of the offence, and an account of any attempts to retrieve this information]

If [insert customers name] had informed [insert LA Name] [insert details of the offence] [insert details of the actions that would have been carried out].

I have not checked any databases that are not pertinent to the administration of Housing Benefit and Council Tax Benefit [delete if not applicable].

The information contained within this statement has been obtained from records compiled by officers/employees of the [Name of Council], 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.

I can confirm that in order to make this statement, I have thoroughly checked [Insert LA name] Council benefit records in respect of [insert customers name] and believe that this is an accurate representation of [his/her] claim history during the period of the overpayment.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary

### **Statement of Local Authority to both Exhibit and Rebut**

I am employed by [insert Name & Address of Council]. I have been employed since [insert date/year] and have held my current role since [insert date]. My current role and area of responsibility is [insert Job Title & list main responsibilities] in respect of Housing Benefit [delete if not applicable, and Council Tax Benefit]. I make this statement from my own experience and from information obtained from the records of the Local Authority benefits office.



Information has been received from the Department for Work and Pensions (DWP) which questions the legitimacy of the [insert Benefit Type] claims made by [insert Customers Name] of [insert Customers Address] indicating that [insert Offence details].

[Insert LA name] follows a specific process when information is received either by post, electronically or by telephone. [Insert details of LA processes for making electronic written records of phone contact, processes for scanning or electronic storage of paper documents and storage of email contact]. These documents cannot be altered or deleted in error once stored, to ensure that records remain accurate.

Following a request by the Department for Work and Pensions Counter Fraud and Compliance Directorate, I have checked all relevant Computer/Clerical records [delete as applicable] held by [insert LA Name] in relation to [insert customers name] and could find no notification of [insert details of the reportable change].

[If applicable, insert details of any purged information during the period of the offence, and an account of any attempts to retrieve this information]

If [insert customers name] had informed [insert LA Name] [insert details of the offence] [insert details of the actions that would have been carried out].

I have not checked any databases that are not pertinent to the administration of Housing Benefit and Council Tax Benefit [delete if not applicable].

Housing Benefit [delete if not applicable, and Council Tax Benefit] [is/are] means tested benefit/s and [is/are] administered by the Local Authority [it is/they are] designed to assist people on low income to pay their rent charge for the property where they live [delete if not applicable, and to assist with the Council Tax liability charge for the same property].

In order to receive benefit a person must submit an application form to the Local Authority and include all their income, capital and full household composition details. This will enable an assessment and determination of the level of benefit required, based on the information supplied in the claim forms.

The application forms provide explanatory notes to assist the applicant regarding what information is required to enable a correct assessment to be carried out.

The customer is required to [insert sign a declaration or insert different details if other methods are used such as e-claims where the claimant does not actually sign the declaration] on the applications for benefit that states the information provided is true and complete and they understand that any changes in their circumstances must be reported to the appropriate department.

[Insert Customers Name] claimed [insert Benefit Type] benefit from [insert date] to [insert date].

The claim was assessed based on the information provided by [insert Customers Name] within the application form and any supporting documents provided during the application process, namely that [include pertinent details of customer's household and income status. Please also detail any relevant changes in circumstances that were reported during the period of the claim, which resulted in changes to the amount of benefit paid to the customer].

I wish to produce the following documents as exhibits:

[Insert exhibits here including claim forms /change of circs reports etc.]

As a result of the investigation into the claims to benefit made by [insert Customers Name], a reassessment of [insert Benefit Type] has taken place. This has resulted in an overpayment of [insert amount of overpayment] for the period [insert dates of overpayment]. This decision was made under [insert details of the Legislation used to make the decision].

The total loss to [insert Name of Council] Council is £ [insert amount].

The information contained within this statement has been obtained from records compiled by officers / employees of [insert Name of Council] Local Authority, in the course of their duties, from information supplied directly 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.

I can confirm that in order to make this statement, I have thoroughly checked [insert LA name] council benefit records in respect of [insert customers name] and believe that this is an accurate representation of [his/her] claim history during the period of the overpayment.

I am prepared for this statement to be used in criminal proceedings and I am prepared to attend court if necessary.

### **National Insurance Number Process Allocation Statements Document Examiner Statement**

I am employed by the Department for Work and Pensions as a document examination officer in the National Identity Fraud Unit.

I have been examining documents for [INSERT length of time in years and months].

My duties include the examination of documents to enable me to give my opinion on their authenticity.

On [INSERT date] I received from [INSERT name of officer] who is a document examination officer, a document which purported to be a [INSERT type of document and Nationality (if appropriate)] number [INSERT number of document (if appropriate)] in the name of [INSERT suspects name] born on [INSERT date of birth shown on document] [the following must be entered if available] that was issued on [INSERT date] and expires on [INSERT date]. This document is exhibited as exhibit [INSERT number of exhibit].

I have examined the document and noted the following:

[INSERT details of suspected discrepancies such as: intaglio ink is missing, the watermark is visible under UV, the watermark is not correct because ..., UV reaction on the bio data page is incorrect].

In view of the points highlighted above, I believe the Passport/Identity Card is counterfeit/manipulated and should not be relied on as evidence of nationality or identity of [INSERT name of person shown on the document].

### **National Identity Fraud Unit Team Leader Statement**

I am employed by the Department for Work and Pensions as a team leader with the National Identity Fraud Unit based at [INSERT location].

My duties include the examination of documents and to give an opinion on their authenticity. I have been examining documents for [INSERT length of time].

Whenever a document is received in the National Identity Fraud Unit for the purpose of checking its authenticity it is dealt with securely.

A [INSERT details of document such as nationality, passport], exhibited as [INSERT exhibit number] in the name of [INSERT name] and date of birth of [INSERT date of birth] (the following must be entered if available), that was issued on [INSERT date] and expires on [INSERT date], was received in the National Identity Fraud Unit on [INSERT date] from [INSERT name of person who sent this document] from the Document Examination Team (if appropriate).

This [INSERT description of document] was then booked into a valuables register, entered on a local database and passed to [INSERT name of Document Examination Officer] a Document Examination officer, who conducted an examination of the [INSERT description of

document such as 'passport'], this enabled him/her to give an opinion that the document was false.

The [INSERT type of document] was then passed by hand to [INSERT name of second examiner] who is also a document examination officer on [INSERT date]. [INSERT name of second examination officer] confirmed the findings of [INSERT name of first examination officer].

[INSERT name of officer] then compiled an arrest package.

The [INSERT name of document] and relevant paperwork was then passed to me. I checked the documentation and authorised the release of the arrest package.

I sealed the package and arranged for it to be sent to the Department's Fraud Investigation Service at [INSERT location] by TNT documented service on [INSERT date] after noting the register and database.

This statement is based on the Department for Work and Pensions nationally agreed process for the handling of suspect documents.

### **National Insurance Number Interview Statement**

I am employed by the Department for Work and Pensions as a [INSERT job title] based at [INSERT location].

My duties include interviewing persons applying for National Insurance Numbers.

On [INSERT date] I interviewed a person purporting to be [INSERT name] with a date of birth of [INSERT date of birth] in connection with this person's application for a National Insurance Number. A CA5400 National Insurance Number application form was completed and signed in my presence by this person which is produced as exhibit [INSERT exhibit number]. During the interview he/she produced a [INSERT description of document, for example, passport/identity card, etcetera] containing serial number [INSERT serial number if appropriate] (the following must be entered if available), that was issued on [INSERT date] and expires on [INSERT date]. This is exhibited as exhibit number [INSERT exhibit number]. (Enter the following if document contains a photograph) The photograph on this [INSERT description of document] appears /or does not appear to be of the person I interviewed. I contacted the Document Examination Team at [INSERT location] on [INSERT date] because [INSERT reasons].

#### **Enter either:**

- the Document Examination Team requested sight of the [INSERT description of document] and I was given reference number [INSERT number]
- the Document Examination team asked me to send the [INSERT description of the document] to the National Identity Fraud Unit.

I retained the [INSERT description of the document] at the end of the interview so that it could be examined and gave the person I interviewed a receipt for this.

I sent the passport/identity card [INSERT Exhibit number] to **EITHER** Document Examination Team OR the National Identity Fraud Unit on [INSERT date] by TNT documented service.

I would describe the person I interviewed as [INSERT description of person including approximate height, weight, hair colour and style, accent, and any distinguishing features].

### **Non-Compliant Employers Statement of investigating officer**

I am an Accredited Counter Fraud Specialist employed by the Department for Work and Pensions [INSERT relevant investigative branch if appropriate, for example, the joint shadow economy team] based at [INSERT office location].

My duties include the investigation of cases of alleged benefit fraud committed against the Department by both employers and employees.

Following the receipt of information I made enquiries into [INSERT full name and address of company].

**If observations carried out** on company include the following paragraphs.

As a result of receiving this information authority was granted to carry out observations on [INSERT name of company] during the period [DATE] to [DATE].

I wish to exhibit as [INSERT exhibit number(s)] the following documents [INSERT observation/surveillance logs, QB50 notebooks, photographs and or video recordings].

**If a wage enquiry** was sent to the company include the following paragraphs.

As a result of receiving this information we wrote to [INSERT name of company] asking the company to provide us with details of their employees.

I wish to exhibit as [INSERT exhibit number(s)] the following documents [INSERT name of wage enquiry forms, such as, EQ1 or survey list, etcetera]

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Investigating Officer following visit to an Employer**

I am an Accredited Counter Fraud Specialist employed by the Department for Work and Pensions [INSERT relevant investigative branch if appropriate, for example, the Joint Shadow Economy Team] based at [INSERT office location].

My duties include the investigation of cases of alleged benefit fraud committed against the Department by both employers and employees.

Following the receipt of information I made enquiries into [INSERT full name and address of company].

As a result of receiving this information, both myself and my colleague [INSERT name of other investigating officer] made a visit to [INSERT name of company] on [INSERT date] with a view to making further enquiries.

When we arrived at [INSERT name of company] we exchanged our identities and were introduced to [INSERT name of company officer and position in the company].

We informed [INSERT name of company officer] that we were Accredited Counter Fraud Specialists for the Department for Work and Pensions and that we were making enquiries under the Social Security Administration Act 1992.

[INSERT name of company officer] was asked to complete (**or** sign) a statement in which he/she confirmed his/her position in the company and how long they had held this position. It was also confirmed that [INSERT name of company officer] was the person responsible for hiring and dismissing staff.

**Insert the following paragraphs** if appropriate

[INSERT name of company officer] was also asked to provide a list of all employees employed in any capacity by [INSERT name of company] during the period [DATE] to [DATE].

[INSERT name of company officer] confirmed in his statement that apart from those people named in the list, no other persons had been employed by [INSERT name of company] during the period [DATE] to [DATE].

I wish to exhibit as [INSERT exhibit number] [INSERT document name, such as, list of employees].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Investigating Officer – Rebuttal for unpaid workers and family matters**

I am an Accredited Counter Fraud Specialist employed by the Department for Work and Pensions [INSERT relevant investigative branch if appropriate, for example, the Joint Shadow Economy Team] based at [INSERT office location].

My duties include the investigation of cases of alleged benefit fraud committed against the Department by both employers and employees.

Further to my statement dated [INSERT date of previous witness statement CE2] I can confirm that when [INSERT name of company officer] of [INSERT name of company] was asked to provide a list of all employees employed by [INSERT name of company] on [INSERT date of request to provide list] it was made clear to [INSERT name of company officer] that the list had to include people falling within the categories detailed below. [INSERT name of company officer] was provided with a form [INSERT name the document], which set out the categories of people that had to be included in the list.

- self employed people
- any person working for themselves using the company's premises and/or equipment
- any casual staff
- any persons undergoing any kind of training paid or unpaid
- any persons working on a trial basis
- any persons working to pay off a debt to another person of the company
- any persons working under any form of personal agreement with management or another employee
- any persons sub-contracted to work by a company employee
- any persons employed or working in any other capacity whatsoever
- any persons in paid remuneration be they full or part-time
- any relatives falling into any of the above categories.

At no time was [INSERT name of company officer] asked to provide a list containing only the names of people who were in receipt of remuneration from [INSERT name of the company].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Other Statements**

#### **Statement of Employer**

I am employed as a [INSERT position in company] by [INSERT name of company/business].

I know and can recognise [INSERT full name of claimant] of [INSERT full address]. He had been employed by the company/business during the period from [DATE] to [DATE]. During the course of his employment I would see him on a daily/weekly basis for up to [INSERT details of on average how long the witness would see the claimant] and I would describe him as [INSERT as detailed description as possible].

[INSERT name of claimant] has been employed as a [INSERT position] and his duties were [INSERT brief description of duties].

I wish to exhibit as [INSERT exhibit number] a form EQ1 giving details of wages paid to [INSERT name of claimant] during the period from [DATE] to [DATE].

**Note:** That if the person who produces the wage records is not in a position to know and recognise the claimant then a further statement will be required from an employee usually a supervisor who can. If any photographic id was issued to the claimant this should also be produced by a witness.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Non-declaration of rent or boarding – Statement of tenant/lodger**

I am [INSERT position] living at [INSERT present address].

I can confirm that during the period [DATE] to [DATE]. I was living at [INSERT full name and address of rented or boarded property] as a [INSERT tenant or lodger or boarder, etcetera]. The name of the landlord/landlady was [INSERT full name of landlord or landlady]. Whilst I was living at this address I was paying [INSERT rent, board or lodging allowance] to the landlord/landlady in the sum of £[INSERT amount] on a [INSERT weekly or monthly] basis. The payments of [INSERT rent, board or lodging allowance] were made by [INSERT cash, cheque or direct debit].

**If appropriate** include the following paragraphs.

I wish to exhibit as [INSERT exhibit number] a copy of the [INSERT rental agreement, tenancy, lease or boarding agreement].

I wish to exhibit as [INSERT exhibit number] a copy [INSERT schedule/record/statement] of payments made to the landlord/landlady.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Claimant in Prison – Statement from Her Majesty's Prisons Admissions Officer**

I am employed as a [INSERT position] based in [INSERT name and address of prison or detention centre]. I am responsible for [INSERT brief description of duties].

I can confirm that on [INSERT date], [INSERT name of claimant/prisoner] of [INSERT full address of claimant/prisoner] was admitted into legal custody at [INSERT name of prison or detention centre]. The prisoner was released from legal custody on [INSERT date].

If appropriate include their prisoner number was [INSERT number].

I wish to exhibit as [INSERT exhibit number] a copy of [INSERT as appropriate the admission into custody/discharge from custody record sheet] in respect of [INSERT claimant's/prisoner's name].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Claimant in Hospital – Statement of Hospital Admissions Officer**

I am employed as a [INSERT position] based in [INSERT name and address of hospital or NHS Trust]. I am responsible for [INSERT brief description of duties].

I can confirm that [INSERT name of claimant] of [INSERT full address] was admitted as an in-patient at [INSERT name of hospital] on [INSERT date] and was discharged from hospital on [INSERT date].

**If appropriate** include the following paragraph.

I wish to exhibit as [INSERT exhibit number] a [INSERT name of document, such as, admissions and discharge record sheet].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Occupational Pension – Statement of Occupational Pension Administrator**

I am employed as a [INSERT position] based in [INSERT name and address of organisation or department making payments occupational pension]. I am responsible for [INSERT brief description of duties].

I can confirm that during the period [DATE] to [DATE] payments of [INSERT details of occupational pension or pension type] were made to [insert full name of claimant] at [INSERT claimant's full address] on a [INSERT yearly, monthly, weekly, or fortnightly] basis.

I wish to exhibit as [INSERT exhibit number] a schedule of payments of [INSERT occupational pension or pension type] that were made to [INSERT claimant's name] at [INSERT full address] during the period [DATE] to [DATE].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Other Income – Statement of Other Income Provider**

I am employed as a [INSERT position] based in [INSERT name and address of organisation or department making payments of other income]. I am responsible for [INSERT brief description of duties].

I can confirm that during the period [DATE] to [DATE] payments of [INSERT details of other income paid] were made to [INSERT full name of claimant] at [INSERT claimant's full address] on a [INSERT yearly, monthly, weekly, or fortnightly] basis.

I wish to exhibit as [INSERT exhibit number] a schedule of payments made to [INSERT claimant's name] at [INSERT full address] during the period [DATE] to [DATE].

The information contained in the document was 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 with. All reasonable steps have been taken to identify the persons who supplied the information but either they cannot be identified or cannot be expected to have recollection of the matters dealt with having regard to the length of time since he/she supplied the information and all other circumstances.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **RTI Witness statement from Interventions (DWP)**

A continuity statement is only required in the instance of a rebuttal being dealt with and the evidence being contested. There may however, be instances where a continuity statement is specifically requested by a lawyer and then this must be supplied at pace.

***Amend as necessary.***

***Enter relevant Dates/Text in brackets below.***

***Delete Bold type and link below.***



I am employed as a Case Cleanse officer by the Department for Work and Pensions (DWP) I have been employed by DWP for over **[Insert number of years]** years and in my current capacity for **[Insert number of years or months]** years/months **[delete as appropriate]**. My team's duties as part of the Counter Fraud & Compliance Directorate's Interventions Service include comparing benefit information held on the Department for Work and Pensions benefit systems against HMRC Real Time Information data.

Real Time Information is a HMRC system for collecting Pay As You Earn (PAYE) information from employers and pension providers. Employers and pension providers are required to use this system to provide HMRC with income details immediately after each payment they make.

HMRC initially match DWP benefit data with the Real Time Information data that has been supplied to them by employers/pension providers.

Outputs from this match are made available to the Department for Work and Pensions via the National Fraud Initiative Web Based Collaboration Tool. This is an established and secure way of sharing this data.

The Real Time Information is accessed through the National Fraud Initiative tool and compared with benefit data held on the Department for Work and Pensions systems. When discrepancies are detected the specific data is extracted directly from the National Fraud Initiative tool and saved as a PDF file. The data cannot be altered in any way and there is no input from the person who extracts the file.

On **[Insert date]** I accessed the National Fraud Initiative Web Based Collaboration Tool in relation to **[Insert name /DOB/ Address etc of person information relates to]**, and compared the data with benefit details held on the Department for Work and Pensions systems. I detected a discrepancy which suggested a potential fraud and saved the data as a PDF file, raising a referral via a secure portal for an investigation to proceed. Therefore I wish to tender in evidence the following: HMRC Real Time Information dated: **??/??/???? – EX.Ref No RTI {select - (HMRC Wage Details) or (HMRC Pension Details)}** This statement has been prepared for use in Criminal proceedings.

I am prepared to attend court if necessary.

## **Rebuttal Statements**

### **I wrote/telephoned and reported work**

I am employed by the Department for Work and Pensions. My duties include supervising a section that deals with claims for Income Support.

I have examined the following exhibits:

[INSERT here the relevant benefit documents retrieved by the investigator should be listed, the same exhibit numbers from the investigator's statement must be used.]

The claim for benefit was initiated on the submission of the claim form [INSERT name of claim form and relevant exhibit number]. Subsequent reviews of entitlement to benefit were carried out upon receipt of review forms, [INSERT name of claim form and relevant exhibit number].

[INSERT name of claimant] had claimed Income Support on the basis that she was a single parent who was not working. [INSERT name of claimant] received her Income Support by means of an order book. The order book has a section of yellow instruction pages that detail all of the changes in circumstances that should be declared whilst claiming benefit. I refer to exhibit [INSERT exhibit number for order book or specimen form investigator's statement]. Each time a payable order is cashed, the payee has to sign the following declaration, "I declare that I have read and understand all of the instructions in this order book. I have correctly reported any facts which could affect the amount of my payment and that I am entitled to the above sum. I refer to the following exhibits":

[INSERT a list of paid orders exhibited in investigator's statement]

A claimant claiming Income Support is entitled to [INSERT the relevant conditions for claiming income support that are related to the case at hand, detailing the earning disregard, etcetera]. If a claimant worked then they would be required to inform the department in any one of the following ways:

- letter
- telephone call
- by attending at the Departmental office

I have made a thorough check of [INSERT claimant's name] claim file and I can find no record of her declaring any work to the department during the period from [DATE] to [DATE] [INSERT overpayment period]. During this period [INSERT claimant's name] did report the following changes in circumstances:

Witness should list the changes that were reported and recorded.

Evidence of the reported changes should also be exhibited.

If [INSERT claimant's name] had telephoned/written/attended at the Departmental offices and reported that [he/she] was working then [INSERT detailed explanation of what would have happened, how would it be recorded, what advice would be given, would any forms be sent to the claimant to complete if so samples should be exhibited].

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 had been taken to identify the persons who supplied the information but either they cannot be found or cannot be reasonably expected to have any recollection of the matters dealt within that information.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **I didn't see the ES24 declaration**

I am employed by the Department for Work and Pensions. My duties include dealing with claimants who claim Job Seekers' Allowance.

[INSERT name of claimant] claimed Job Seekers' Allowance on the basis that he was a single man who was not working/married man and neither he nor his partner was working.

[INSERT name of claimant] received his benefit by means of giro cheque/Automated Credit transfer into his bank account. These payments were made on the basis that he attended at the Department's Offices at [INSERT location] and completed form ES24 which contains the following declaration:

INSERT the full declaration from form ES24.

I refer to exhibits [INSERT ES24 exhibits from investigator's statement]. I can confirm that I was the signing on clerk that dealt with [INSERT name of claimant] when these exhibits were signed. When the form ES24 is presented to the claimant it opened it is opened out so that the declaration can be seen. It is also my practice to ask the claimant whether there have been any changes in his circumstances or those of his dependants.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **I didn't know I had to declare work to the Department**

I am employed by the Department for Work and Pensions as a visiting officer. My duties include visiting claimants at their home address to conduct benefit reviews.

I can confirm that I attended at the home address of [INSERT name of claimant] on [INSERT date]. During the course of this visit I completed [INSERT name of benefit form concerned]

by asking [INSERT name of claimant] the questions on the form and recording his answers. When going through the form I would explain each question in detail to [INSERT name of claimant].

**If the visiting officer** made notes of what took place during the visit these should also be exhibited by the witness.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Surveillance- Statement of Investigator**

I am a Fraud Investigator employed by the Department for Work and Pensions. I have been employed as an Investigator since [Insert Date].

Since [Insert Date], I have been employed on the [Insert Region] Regional Surveillance Team. My duties include conducting surveillance in cases of suspected benefit fraud against the Department.

From [Insert date] I was engaged in surveillance activity in respect of the subject [Insert name], whose date of birth was provided as [DOB], and whose home address was provided as [Address etc of person information relates to].

Following authorisation to conduct surveillance, I was the Officer in Charge of the case to conduct surveillance on [Insert name], as specified in the Directed Surveillance Authority (RIP1).

Surveillance was conducted on [No.] occasions between [Insert Date] and [Insert Date].

The surveillance was conducted by officers [Insert names] during this period, all of whom will provide individual statements if required.

At the beginning of each day I can confirm that a briefing was conducted which defined the objectives and parameters of the days surveillance.

A positive identification of [Insert name] was made from a supplied photograph.

Each officer undertaking surveillance recorded their sightings and activities contemporaneously in individual N1 notebooks.

I can confirm at the end of each day's deployment a debrief was held where all officers involved signed their relevant notes.

Video footage was obtained on [No.] days.

All times referred to in the video footage are approximate.

All footage in this case has been reviewed and Surveillance Summary Sheets have been produced. These have been compiled by the officers involved as the surveillance has been conducted. They are an accurate report of what has been seen during surveillance.

These are produced as exhibits: [Insert Detail] and [Insert Detail].

Edited discs have been produced of the footage which are produced as Exhibits [Insert Detail].

A Continuity Log, has run throughout this operation and is produced as exhibit [Insert Detail].

I am prepared for this statement to be used in criminal proceedings.

I am willing to attend court if necessary.

### **Surveillance- Production of DVDs**

#### **DVD Produced by the Surveillance Officer**

DVD is exhibited by the Surveillance Officer in their MG11 statement.

#### **If CPS require more detailed evidence then this statement can be used:**

I am employed as a [INSERT job title] based at [INSERT name and address of office]. My duties include burning footage obtained during covert surveillance operations onto a DVD.

On [INSERT date/time] [INSERT name of surveillance officer] handed a [INSERT details of camcorder, including make, memory card, flashcard, etcetera], which held recorded footage

taken during a covert surveillance operation on its hard drive, to me for the purpose of burning the footage onto a DVD.

On [INSERT date/time] I placed the [INSERT details of camcorder including make, flashcard, memory card, etcetera] containing surveillance footage recorded on [INSERT day/date/time or period if several days surveillance footage is included] into a [INSERT make and model] laptop computer which contains software to enable me to burn the footage on the [INSERT details of camcorder including make, flashcard, memory card, etcetera] onto a DVD. I burned the images from the [INSERT details of camcorder including make, flashcard, memory card, etcetera] onto a DVD which I handed to [INSERT name of surveillance officer] on [INSERT date/time].

The images on [INSERT details of camcorder including make, flashcard, memory card, etcetera] have since been erased to enable this to be used in future surveillance operations.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Edited DVD produced by Surveillance Officer**

I am employed as a [INSERT job title] based at [INSERT name and address of office]. My duties include the editing of video footage obtained during covert surveillance operations.

On [INSERT date/time] [INSERT name of surveillance officer] handed a DVD (or several DVDs) [INSERT Exhibit No(s)] to me for the purpose of deleting footage that I believed had no relevance to the investigation of [INSERT name of person being investigated].

On [INSERT date/time] I placed the working copy DVD(s) [INSERT exhibit no(s)] containing surveillance footage recorded on [INSERT day/date/time or period if footage was taken over several days] into a [INSERT make and model] laptop computer which contains image editing software. The data on the master DVD(s) was/were transferred directly to the computer hard-drive/DVD. I edited the transferred data to remove items that had no relevance or interest to the investigation. The edited footage was then burned onto a DVD which I now exhibit as [INSERT exhibit no]. The working copy DVD was handed back to [INSERT surveillance officer name] on [INSERT date/time].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Search and Seizure – Investigators Statement**

I am an Accredited Counter Fraud Specialist employed by the Department for Work and Pensions based at [INSERT office location].

My duties include the investigation of cases of alleged benefit fraud against the Department. Following the receipt of information concerning the claim to benefit made by [INSERT claimant's name], whose National Insurance Number is [INSERT NINo] of [INSERT full address], authorisation was granted to carry out the arrest of [INSERT claimant's name] in order search the premises at [INSERT address] to facilitate a seizure of any material relating to the alleged fraud.

On [INSERT date], in the company of officers from [INSERT police region], I was present at the arrest of [INSERT name]. I was also present when the officers carried out the search of the premises at [INSERT address of property].

Following a [INSERT section number] PACE search, material, including a quantity of documents, were seized by [INSERT Rank and name of Police Officer] of [INSERT police region] and placed in sealed evidence bags serial numbers [INSERT Serial numbers of all exhibits seized] these documents are specified within the officer's statements as exhibits [INSERT all exhibit numbers]. On [INSERT date] at [INSERT time] [INSERT Rank and name of Police Officer] handed all seized items to me and they were placed into secure storage within a DWP office.

On [INSERT date] at [INSERT time] I retrieved [INSERT exhibit numbers] from storage and broke the seals on the packages and reviewed the contents. Having reviewed all the material contained within [INSERT exhibit numbers], I extracted the following documents [INSERT list of all documents and all relevant identification dates] as being relevant to the investigation. I wish to exhibit these documents as follows [INSERT list of all documents, including exhibit numbers]. The remainder of the material was returned to secure storage and form part of the unused material.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Student Grant Fraud**

#### **Statement of University Registrar/Head of School**

I am the [INSERT position in university/school] of [INSERT address of establishment]. My principal duties include the enrolment and admission of students at the University. I can confirm from my records that [INSERT name of defendant] enrolled on a [INSERT name of course] commencing [INSERT date course began].

[INSERT name of course] is a [INSERT full/part time] course and [INSERT name of defendant] would have been required to undertake [INSERT how many] hours of directed learning per week. In addition he/she would have been required to study for [INSERT how many] hours per week and submit [INSERT details, such as, coursework]. The duration of the course is [INSERT number] years.

When a student enrolls on a course at this [INSERT university/school] they are required to complete a [INSERT name of enrolment/application form]. I now produce as exhibit [INSERT exhibit number] the student application form of [INSERT name of defendant].

The registrar should exhibit all application forms and correspondence held by the university in respect of the defendant. If the application form contains a photo he should point this out.

The information contained within this statement has been obtained from records compiled by administrative staff within the [INSERT university/school], 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 this information but they either cannot be found or cannot be reasonably expected to have any recollection of the matters dealt with in that information.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

#### **Rebuttal statement – I did not know that my grant/loan would affect my benefit**

I am a [INSERT position in university/school] of [INSERT address of establishment]. My role includes assisting students in applying for financial assistance and advising on their eligibility for support.

I can confirm that when a student is in receipt of income support/jobseeker's allowance and visits this office to discuss applying for a student grant/loan I will advise [INSERT the nature of advice given by witness; giving brief description of training given to advisors if the witness is unable to recall the defendant and/or you are unable to identify the particular advisor who dealt with the defendant].

In addition to oral evidence students are issued with the following information leaflets. I wish to exhibit [INSERT exhibit number] which would have been issued to the student when he/she attended the office.

This statement is an example only. Particular attention should be paid to the explanation given by the claimant during interview and the rebuttal statement should deal with any points raised.



I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Rebuttal from Personal Tutor – I did not attend course**

I am a [INSERT position in university/school] of [INSERT address of establishment]. My role includes acting as a personal tutor to a number of students.

I know and can recognise [INSERT name of defendant].

I can confirm that I was/am a personal tutor to [INSERT name of defendant]. [INSERT name of defendant] is enrolled upon a [INSERT name and brief details of course, for example, duration full or part time]. I can confirm from my [INSERT attendance notes/diary] that I met with [INSERT name of defendant] on the following occasions [INSERT details of meetings and any interaction between tutor and student. Any documents which are referred to should be exhibited by witness] and I would describe him/her as [INSERT as detailed a description as possible].

This statement is an example only. Particular attention should be paid to the explanation given by the claimant during interview and the rebuttal statement should deal with any points raised.

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Tax Credit Desk Statement**

I am employed as a Criminal Intelligence Officer by the Counter Fraud and Compliance Directorate (CFCD) which is an executive agency within the Department for Work and Pensions. I work on the Tax Credit Desk based at Ryscar House, Faraday Way, Blackpool, FY2 0EG.

The following information has been extracted from [www.gov.uk](http://www.gov.uk) ([link is external](#))

Tax Credits comprises Working Tax Credit and Child Tax Credit. Working Tax Credit can be awarded to those aged from 16 to 24 if they have a child or a qualifying disability or to those aged 25 or over, with or without children. The applicant must work a certain number of hours a week, get paid for the work they do (or expect to) and have an income below a certain level. Child Tax Credit can be awarded to those with responsibility for a child or children who are under 16 or under 20 and in approved education or training. The award of Child Tax Credit is not dependent upon the applicant being in employment. It does however depend on the circumstances of the applicant e.g. the number of children they have responsibility for and the income level of the applicant.

A new application for Tax Credits is made by calling the Tax Credit Helpline to request a claim form. An application for Tax Credits can be made as a single person or as a couple, which is known as a joint claim if the applicant or applicant and partner are both over 16 and living in the United Kingdom. Usually an applicant must make a joint claim if they're married or in a civil partnership (and not permanently or legally separated), they live with their partner as though they are married or in a civil partnership or they are temporarily living away from one another. A joint claim may also be necessary if the applicant and their partner are not married or in a civil partnership, but sometimes live in the same house, have a joint financial agreement and have dependent children.

The Tax Credits claim form typically includes the following warnings and instructions for the applicant at the Declaration; You must sign this declaration. If you give false information, you may be liable to financial penalties and/or you may be prosecuted. I declare that the information given on this form is correct and complete to the best of my knowledge and belief.

Once an award of Tax Credits has been made, changes in circumstances can be reported over the telephone to the Tax Credits Helpline or online via their Government Gateway account or by post. Telephone calls made to the Tax Credit Helpline are recorded and are stored electronically. Her Majesty's Revenue and Customs advise that a small number of

telephone calls are not captured by the recording system and consequently are not available for retrieval.

At the end of each tax year, all Tax Credit recipients receive an Annual Review form and notes which provide a summary of the information on which their Tax Credits award for the year was calculated. Some claimants will receive a TC603R which is known as an Auto Renewal case whilst other claimants will receive a TC603RD. Both renewal notes tell the claimant to check the information on the Annual Review form to ensure this information is correct. They must comply with the following:

1. Check that the personal circumstances we based your claim on at the start of your award period are correct.
2. Check that any changes made to your claim during your award period are correct. These could be changes you've told us about, or changes we've made. If any changes are missing, or you haven't told us about a change, you must tell us now.
3. Check your Annual Review. Income details from your employer(s) and pension provider(s) may be shown for you, or your partner, (if you have one). Check if the income figures are correct and if there are any adjustments you need to make. Use the notes to help you do this.

If the claimant only receives the TC603R they will be asked if the details are correct. If they are correct, the claimant does not need to take any further action as the tax credits will be renewed automatically.

If a claimant receives a TC603RD they must check the details and make their declaration by renewing online, post or phone. By making this declaration they are confirming that:

- the information given on the form is correct and complete to the best of their knowledge and belief, and they have reported any changes that they must tell Tax Credits about.

Also they understand that:

- Tax Credits will use the information on this form to decide the final amount of the tax credits award for the previous year
- the form is their claim to any Tax Credits due to them for the current year and the amount due will be worked out using the information given.
- if this is a joint claim, they share responsibility with the other person named on the form, for all the information given and any tax credits overpaid may be recovered from both or either of them.

In all cases, if claimants spot any mistakes in the above checks, they must tell HMRC Tax Credit Office of the errors.

Claimants are warned that if they do not report a change within 30 days they could be fined up to £300 and up to £3,000 if they provide wrong information.

As part of the investigation into [insert customers name] claim to and subsequent award of Tax Credits I received a request from [insert FI's name] requesting information in respect of [insert customer name]. I checked the National Tax Credit computer system using the unique National Insurance Number [insert National insurance number] which relates to [insert customers name].

On [insert date] I obtained copies of all documents and telephone calls received, retained by HM Revenue and Customs from [insert customers name] during the tax years (2011/12, 2012/13, 2013/14, 2014/15 and 2015/2016 and 2016/2017 (to date)) [delete as applicable]

I obtained the following evidence:

Copy of Application form(s)

Copies of Annual Renewal declarations

Screen prints of household notes

Call request stencil of calls received by Tax Credit Contact Centre



Records of the following telephone conversations

At [insert time] on [insert date] I sent the above to [insert FI's name] via secure e-mail.

According to information available from Her Majesty's Revenue and Customs [insert customers name] would have been sent a leaflet TC603R or TC603RD (Renewing your tax credits – getting it right), every year between April and June. This leaflet is intended to guide claimants through Tax Credit renewal process.

The information I refer to in this statement was obtained from records maintained by HM Revenue and Customs, which were compiled in the course of the normal business of that department. The information was compiled by staff from the Department for Work and Pensions, acting under a duty, namely as an employee of the Department for Work and Pensions, from information supplied by persons who had, or who may reasonably be supposed to have had, personal knowledge of the matters dealt with in the information supplied. Employees of HM Revenue and Customs cannot be reasonably be expected, given all other circumstances and the time elapsed since they acquired the information, to have any recollection of the matters dealt with in that information.

I am prepared for this statement to be used in criminal proceedings.

I am prepared to attend court if necessary.

### **Telephone Claims**

#### **Statement from Official taking initial telephone claim**

I am employed as a [INSERT position] based in [INSERT name and address of DWP/JCP office]. I am responsible for [INSERT brief description of duties].

I can confirm that on [INSERT date and time], a person purporting to be [INSERT name of claimant] of [INSERT full address] telephoned this office and made a telephone claim for [INSERT name of benefit].

During the course of the telephone conversation the information contained on the computer system prompted me to ask [INSERT name of claimant] a sequence of questions concerning [INSERT claimant's name] personal circumstances. [INSERT claimant's name] provided me with answers to the specific questions and I recorded this information onto the computer system.

The information recorded on the computer system forms the basis of the telephone claim for [INSERT name of benefit]. I can confirm that as a result of recording this information, the computer system automatically sent out to [INSERT name of claimant] a form [INSERT name of computer output document] on the [INSERT date].

The form [INSERT name of computer output form] was sent to [INSERT name of claimant] for signature and a signed copy [INSERT name of computer output form] was received by [INSERT name of DWP/JCP office] on [INSERT date].

I wish to exhibit as [INSERT exhibit reference number] form [INSERT computer output form].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

#### **Statement from Financial Assessor**

I am employed as a [INSERT position] based in [INSERT name and address of DWP/JCP office]. I am responsible for [INSERT brief description of duties].

I can confirm that on [INSERT date], at [INSERT address of DWP/JCP office] I conducted a face to face interview with [INSERT claimant's name] of [INSERT address].

\*The interview was a follow up interview to the telephone claim that was made by [INSERT name of claimant] on [INSERT date].

\*Substitute with free text if appropriate.

During the course of the interview a review of [INSERT name of claimant] telephone claim took place and at no time during the interview did [INSERT name of claimant] inform me that he/she was [INSERT details of allegation, such as, working, had capital, partner was working, LTAHAW, etcetera].

I wish to exhibit as [INSERT exhibit number] the form [INSERT the record of the face to face interview].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

### **Statement of Decision Maker**

I am employed as a [INSERT position] based in [INSERT name and address of DWP/JCP office]. I am responsible for [INSERT brief description of duties].

I can confirm that following the submission of a telephone claim by [INSERT name of claimant] of [INSERT address] on [INSERT date telephone claim made] I accessed the departmental award and payment computer system.

I adjudicated that the claim and benefit entitlement award was correct and therefore authorised that payments of [INSERT name of benefit] be made to [INSERT name of claimant] of [INSERT claimant's address].

I can confirm that as a consequence of authorising payments of [INSERT name of benefit] to [INSERT name of claimant] the computer system automatically issued notice of entitlement letters to [INSERT name of claimant].

The notice of entitlement letters issued to [INSERT claimant's name] confirm the benefit entitlement award as well as giving an explanation on how the benefit award was calculated.

I wish to exhibit as [INSERT exhibit number] forms [INSERT description/name of benefit entitlement letters].

I am prepared for this statement to be used in criminal proceedings. I am prepared to attend court if necessary.

## **07 Specimen Full Process Statements – Scotland**

### **Investigator**

I am an Investigator employed by the Department for Work and Pensions based at [INSERT location address]

My duties include the investigation of cases of suspected benefit fraud against the Department. Following the receipt of information I made enquiries into the circumstances surrounding the claim to benefit made by [INSERT name of claimant] whose National Insurance Number was given as [INSERT NINo] and whose address is [INSERT full address].

At the commencement of the investigation against [INSERT name of claimant] I checked the computer records for the claim and retrieved other relevant documents.

**Explain** the claimant's reason for claiming the particular benefit – See also [Appendix to Full Process Statements](#)

Subsequent review/s of entitlement to benefit was/were carried out upon receipt of review form/s dated [INSERT date/s of the review form completed immediately before the date of the reportable change, if this is not the form already mentioned above, and any others completed during the period of the overpayment]. This/these form/s is/are included as a production/productions.

**For Jobseeker Allowance benefit cases insert the following**

[INSERT name of claimant] attended at the Department's offices at [INSERT office address] on a fortnightly basis to declare whether any circumstances had changed as declared on form ES24. ES24/s is/are included as a production.

**Include** the following in all statements

Each claim/review form, [for JSA cases: INSERT and ES24] requires the claimant to provide information about their circumstances.

On the basis of the information contained in [INSERT name of claimant's] claim/s, [in JSA cases, INSERT and ES24/s] payment of [INSERT name of benefit/s] was awarded.

Between [DATE] and [DATE] payment of benefit was made by [INSERT method/s of payment]. During this period [INSERT what information/documents were sent to the claimant which remind them what has to be reported such as: INF4s and ES40ss] was/were issued to [INSERT name of claimant]. The [INSERT descriptor of relevant instructions] is/are included as production(s).

[INSERT steps taken in the investigation such as details of surveillance undertaken, documentary evidence, EQ1, official notebook (N1), financial records, etcetera. Include a descriptor of any evidence gathered and note that this is included as a production].

[INSERT evidence of actual reportable change, if this is known to the witness]

I have checked all the Department's records relevant to [INSERT name of claimant] and could find no notification of [INSERT details of reportable change].

Had [INSERT name of claimant] informed the Department that [INSERT details of the change the claimant failed to declare] no benefit or a reduced rate would have been payable.

The total amount of [INSERT name of benefit/s] overpaid to and recoverable from [INSERT name of claimant] during the period [DATE] to [DATE] is £[INSERT amount] and is set out in the overpayment schedule included as a production.

[INSERT details of interview/s with the claimant, apart from the interview under caution mentioned below, or other relevant parties and note how this was recorded, official notebook/N1, taped, **CI9(S)** ([link is external](#)) and that this record is included as a production].

On [INSERT date] I interviewed [INSERT name of person interviewed] under caution at [INSERT place of interview] where I informed him/her of the alleged offence which he/she admitted / denied / neither admitted nor denied.

The interview was conducted at [INSERT place of interview]. Also present was/were [INSERT identity of other persons present].

The interview was [INSERT details of how the interview was recorded i.e. taped, recorded on form **CI9(S)** ([link is external](#)) or in the official notebook/N1] and this record is included as a production.

I have read the transcript of the interview and can confirm that it is an accurate and complete record.

[INSERT any other significant statement] A transcript of this interview is included as a production.

I can identify [INSERT name of accused] and would describe as [INSERT description].

I will not be available to attend court on/between [INSERT any known dates within next 12 months you would not be available to attend court.]

**Second Officer Statement**

I am an Investigator employed by the Department for Work and Pensions based at [INSERT location address]

My duties include the investigation of cases of suspected benefit fraud against the Department

On [DATE], I was present at an interview under caution with [INSERT name of claimant] conducted by [INSERT name of officer].

The interview was conducted at [INSERT place of interview]. Also present was [INSERT identity of other persons present]

The interview was [INSERT details of how the interview was recorded, for example, taped, CI9(S) or N1 official notebook] and this record is included as a production.

I have read a transcript of this interview, and can confirm that it is an accurate and complete record.

**Note:** The following paragraphs are examples of what to include dependant on what is said at the interview. It may be necessary to tailor this to the individual case

During the interview, [INSERT name of claimant] was informed of the alleged offence, which he/she admitted.

During the interview, [INSERT name of claimant] was informed of the alleged offence which he/she denied and said that he/she had reported the change on or about [INSERT date] in writing/by telephone. I have checked all the Department's records relevant to [INSERT name of claimant] and could find no notification of [INSERT details of reportable change].

**Include** the following in all statements

I can identify [INSERT name of accused] and would describe him/her as [INSERT description]

I will not be available to attend court on/between [INSERT any known dates within the next 12 months when you would not be available to attend court].

### **Nominated Officer Statement**

I am employed by the Department of Work and Pensions. My duties include [INSERT a brief job description such as: dealing with changes in circumstances where benefits are in payment and determination of the amount and recoverability of overpaid benefits].

**Explain** the claimant's reason for the claim – See also [Appendix to Full Process Statements](#)  
Subsequent review/s of entitlement to benefit was/were carried out upon receipt of review form/s dated [INSERT date/s of the review form completed immediately before the date of the reportable change, if this is not the form already mentioned above, and any others completed during the period of the overpayment]. This/these form/s is/are included as a production/productions.

### **For Jobseekers Allowance benefit cases insert the following**

[INSERT name of claimant] attended at the Department's offices at [INSERT office address] on a fortnightly basis to declare whether any circumstances had changed as declared on form ES24. ES24/s is/are included as a production.

**Include** the following in all statements

Each claim/review form [JSA cases, INSERT and ES24] requires the claimant to provide information about their circumstances.

On the basis of the information contained in [INSERT name of claimant]'s claim/s, [JSA cases, INSERT and ES24/s] payment of [INSERT name of benefit/s] was awarded. Between [DATE] and [DATE] payment of benefit was made by [INSERT method/s of payment]. During this period [INSERT what information/documents were sent to the claimant which remind them what has to be reported such as: INF4s and ES40ss] was/were issued to [INSERT name of claimant]. The [INSERT descriptor of relevant instructions] is/are included as production/productions.

[INSERT evidence of actual reportable change, if this is known to the witness]

I have checked all the Department's records relevant to [INSERT name of claimant] and could find no notification of [INSERT details of reportable change].

Had [INSERT name of claimant] informed the Department that [INSERT details of the change the claimant failed to declare] no benefit or a reduced rate would have been payable.

The total amount of [INSERT name of benefit/s] overpaid to and recoverable from [INSERT name of claimant] during the period [DATE] to [DATE] is £[INSERT amount] and is set out in the overpayment schedule included as a production.

I will not be available to attend court on/between [INSERT any known dates within next 12 months you would not be available to attend court.]

## **Appendix to Full Process Statements**

Examples of benefit claims relevant to fraud types

### ***Failure to declare employment while claiming Jobseeker's Allowance***

Form JSA1 was completed by [INSERT name of claimant] on [INSERT date] for the purpose of claiming Jobseeker's Allowance for himself and his partner on the grounds that neither he or his partner did any form of work or had any income. This form is included as a production.

### ***Failure to declare employment while claiming Incapacity Benefit***

Form SC1 was completed by [INSERT name of claimant] on [INSERT date] for the purpose of claiming Incapacity Benefit on the grounds he did no form of work and was incapable of doing any work due to ill health. This form is included as a production.

### ***Failure to declare a partner (LTAMC/Civil Partnership case)***

Form A1 was completed by [INSERT name of claimant] on [INSERT date] for the purpose of claiming Income Support for herself and two children on the grounds that she had no income other than Child Tax Credit and that no-one lived in her household other than herself and two children. This form is included as a production.

### ***Failure to declare savings***

Form A1 was completed by [INSERT name of claimant] on [INSERT date] for the purpose of claiming Income Support on the grounds that she was incapable of work due to ill health, and had no income or savings. This form is included as a production.  
This list is not exhaustive.

## **NINO Allocation Process Statements**

### **Document Examiner Statement**

I am employed by the Department for Work and Pensions as a document examination officer in the National Identity Fraud Unit.

I have been examining documents for [INSERT length of time in years and months].

My duties include the examination of documents to enable me to give my opinion on their authenticity.

On [INSERT date] I received from [INSERT name of officer] who is a document examination officer a document which purported to be a [INSERT type of document and Nationality (if appropriate)] number [INSERT number of document (if appropriate)] in the name of [INSERT name of accused] born on [INSERT date of birth shown on document] (the following must be entered if available) that was issued on [INSERT date] and expires on [INSERT date]. This document is included as a production.

I have examined the document and noted the following:

[INSERT details of suspected discrepancies such as: intaglio ink is missing, the watermark is visible under UV, the watermark is not correct because ..., UV reaction on the bio data page is incorrect]

In view of the points highlighted above, I believe the Passport/Identity Card is counterfeit/manipulated and should not be relied on as evidence of nationality or identity of [INSERT name of person shown on the document].

I will not be available to attend court on/between [INSERT any known dates within next 12 months you would not be available to attend court.]

### **NIFU Team Leader Statement**

I am employed by the Department for Work and Pensions as a team leader with the National Identity Fraud Unit based at [INSERT location].

My duties include the examination of documents and to give an opinion on their authenticity. I have been examining documents for [INSERT length of time]

Whenever a document is received in the National Identity Fraud Unit for the purpose of checking its authenticity it is dealt with securely.

A [INSERT details of document, such as [INSERT nationality] passport] in the name of [INSERT name] and date of birth of [INSERT date of birth] (the following must be entered if available), that was issued on [INSERT date] and expires on [INSERT date], was received in the National Identity Fraud Unit on [INSERT date] from [INSERT name of person who sent this document] from the Document Examination Team (if appropriate). This document is listed as a production.

This [INSERT description of document] was then booked into a valuables register, entered on a local database and passed to [INSERT name of Document Examination Officer] a Document Examination officer, who conducted an examination of the [INSERT description of document, for example passport], this enabled him/her to give an opinion that the document was false.

The [INSERT type of document] was then passed by hand to [INSERT name of second examiner] who is also a document examination officer on [INSERT date]. [INSERT name of second examination officer] confirmed the findings of [INSERT name of first examination officer].

[INSERT name of officer] then compiled an arrest package.

The [INSERT name of document] and relevant paperwork was then passed to me. I checked the documentation and authorised the release of the arrest package.

I sealed the package and arranged for it to be sent to the Department's Fraud and Error Service at [INSERT location] by TNT documented service on [INSERT date] after noting the register and database.

This statement is based on the Department for Work and Pensions nationally agreed process for the handling of suspect documents.

I will not be available to attend court on/between [INSERT any known dates within next 12 months you would not be available to attend court]

### **NINo Interview Statement**

I am employed by the Department for Work and Pensions as a [INSERT job title] based at [INSERT location].

My duties include interviewing persons applying for National Insurance Numbers.

On [INSERT date] I interviewed a person purporting to be [INSERT name] with a date of birth of [INSERT date of birth] in connection with this person's application for a National Insurance Number. A CA5400 National Insurance Number application form was completed and signed in my presence by this person. This form is included as a production.

During the interview he/she produced a [INSERT description of document, for example, passport/identity card, etcetera] containing serial number [INSERT serial number, if appropriate]. The following must be entered if available, that was issued on [INSERT date] and expires on [INSERT date]. This document is included as a production. [INSERT the following if document contains a photograph] The photograph on this [INSERT description of document] appears / or does not appear to be of the person I interviewed.

I contacted the Document Examination Team at [INSERT location] on [INSERT date] because [INSERT reasons].

### **And either:**

The Document Examination Team requested sight of the [INSERT description of document] and I was given reference number [INSERT number].



**Or**

The Document Examination team asked me to send the [INSERT description of the document] to the National Identity Fraud Unit.

I retained the [INSERT description of the document] at the end of the interview so that it could be examined and gave the person I interviewed a receipt for this.

I sent the passport/identity card [INSERT Exhibit number] to Document Examination Team on [INSERT date] by TNT documented service.

I would describe the person I interviewed as [INSERT description of person including approximate height, weight, hair colour and style, accent, and any distinguishing features].

I will not be available to attend court on/between [INSERT any known dates within next 12 months you would not be available to attend court].

## **Working Investigations**

### **00 Introduction**

1. The investigation of claimants who do not declare that they are or have been working whilst claiming benefit forms a large part of the Department for Work and Pensions (DWP) / Local Authority (LA) counter-fraud effort.
2. All work, whether paid or unpaid, must be declared as it may have an effect on the benefit being paid.
3. Whilst an investigator does not require an expert knowledge of the benefit regulations, they should ensure that they are aware of the basic conditions of entitlement of the various benefits.

### **01 Effect of employment on DWP Benefits**

#### **How work affects benefit entitlement**

All work is subject to the qualifying conditions of the benefit concerned. There are some occasions when benefit may still be paid when the claimant or partner is working. For example: part-time or voluntary.

The earning rules are not the same for all benefits. A brief explanation regarding the effect of earnings on the more common benefits are listed below.



If an investigator has doubts about the effect of earnings or working on a benefit, the relevant benefit Decision Maker (DM) must be approached for assistance.

If the alleged person working is the partner of a claimant, proceed in the same way as if the claimant was alleged to be working themselves, except use the partner's details for EQ1 purposes.

### **Jobseekers Allowance and Income Support**

A claimant who works, on average, 16 hours or more a week or whose partner works 24 hours or more per week, if in receipt of income based Jobseeker's Allowance, normally has no entitlement to Jobseekers Allowance or Income Support.

For more information see:

- [Jobseekers Allowance Procedural Guidance – Current Work \(link is external\)](#)
- [Income Support Guide – Current Work](#)

### **Employment and Support Allowance**

Employment and Support Allowance (ESA) claimants are not allowed to do any work unless it is listed as one of the exceptions to the General Work Rule.

For more information on the General Work Rule and the Permitted Work rules, see [ESA - Conditions of Entitlement - Work](#).

### **Incapacity Benefit**

In a limited number of circumstances a claimant can still be receiving Incapacity Benefit (IB) as they are entitled to IB prior to 27 October 2008, the date ESA was introduced.

Where benefit is payable, Permitted Work (PW) rules may apply. Some IB claimants are also able to work due to exempt occupations or may be undertaking approved work, normally as part of a rehabilitation process.

Claimants are encouraged to tell the benefit paying office before they start work. However, they are allowed to start work before informing the department, to ensure that they do not lose a job.

Working under the Permitted Work (PW), Permitted Work Lower Limit (PWLL) or Supported Permitted Work (SPW) rules is treated as any other change of circumstances. They must tell us about the work, and any changes, as soon as possible and notify the department before the work ceases.

For more information, see [Incapacity Benefit – Conditions of entitlement - Permitted Work Rules](#).

## **Disability Living Allowance, Personal Independence Payment and Attendance Allowance**

The award of Disability Living Allowance (DLA), Personal Independence Payment (PIP) and Attendance Allowance (AA) is not based on the claimant's inability to work. Therefore, it is important that any investigation does not focus on the earnings of the claimant but is based on a claimant's mobility restrictions and or personal care needs arising from their disabilities or health related problems.

For more information, see [Awards of Disability Living Allowance, Attendance Allowance and Carer's Allowance](#).

## **State Pension and State Pension Credit**

In State Pension cases, working and earnings do not affect the State Pension in respect of the claimant.

If there is an Adult Dependant's Increase (ADI) in payment and the allegation or query is regarding the work or earnings of the dependant then this may affect the ADI.

In Pension Credit cases there is no full time work exclusion. However, earnings from full or part time work may be taken into account with the appropriate disregard.

## **Unpaid and voluntary work**

Voluntary work is work carried out on a voluntary basis for which no remuneration is received and is normally done for an organisation such as a registered charity. If in doubt, consult the Decision Maker (DM).

Genuine voluntary work may be carried out, but the DM should be informed before that work is undertaken. They will then decide whether the work is accepted as voluntary work and that the work does not conflict with the rules of entitlement.

The claimant, when questioned, may assert that they did not declare the work done because it was voluntary. Remember:

- voluntary work that is simply work carried out for free may be reckonable work according to the benefit rules
- that reckonable work may not be totally disregarded.

The investigator must gather evidence as to whether the work in question is such that an expectation of reward is reasonable. For example: work in a shop where that shop is a commercial business rather than a bona fide charity shop.

Details of the work must be obtained and referred to the DM who will then decide how the benefit is or has been affected.

Details of the evidence submitted and the action taken must be recorded on the Fraud Referral and Intervention Management System (FRAIMS). See FRAIMS guidance – Benefit Decision.

If the DM decides that the work is not voluntary, the investigation can proceed as undisclosed work in the normal way.

The DM may assume an earnings figure based on the current accepted hourly rate for the work being done. The application of assumed earnings will enable a judgement to be made on whether or not a fraud penalty is appropriate.

## **02 Employment**

### **Named employers**

#### **EQ1 Completion**

If there are major discrepancies the authorised officer should arrange to visit the employer and include a written account of that visit, giving details of the employer's account as to:

- how the employer records wages details
- who is responsible for making entries into the wages records
- who would be able to recognise the employee
- if employees are identified by name, home address, clock number, NINo or date of birth
- if the employer currently employs any other person with the same name as the claimant
- if the employer has ever employed a person with the same name as the claimant
- if clock cards or other attendance records are available and whether the claimant has ever signed any of the records
- whether the employer holds wage receipts signed by the employee
- the method of payment

Visits must be fully documented in the Official Notebook (N1) and in witness statements; PF11 or QB1(S) as this will enable the investigator to use this information in an Interview Under Caution (IUC) and/or exhibit or produce it as evidence where:

- it is difficult to produce a witness to give evidence of earnings

- the case may be contested, for example, a claimant using false details or someone else using a claimant's details.

Sometimes, where the period of work is extensive, an employer may require help. If the employer is agreeable, the authorised officer could consider enlisting clerical staff to assist.

If the employer offers to lend the investigator the original pay or work records, or provides copies, accept the offer and provide a receipt.

If the person fails to supply the information required, an Authorised Officer can consider taking action under Section 111 of the Social Security Administration Act 1992. For more information, see the [Aide-memoire for Employer Prosecution \(link is external\)](#).

For further information regarding EQ1 actions taken by the Compliance admin officer and authorised officer see Compliance Admin Guide, EQ1. For further information see [AO10/EQ1](#), [AO14](#) and [MF67](#)

## **Working Partners**

The evidence gathering process is the same as for cases where the claimant is working.

As a case is held on Fraud Referral and Intervention Management System (FRAIMS) in the name of the claimant there will be a need for investigators to cross reference the evidence with the claimant's details. For example, file number, especially where the partner's surname is different to the claimant's. The investigator must bear in mind that the rules of entitlement differ for different benefits. Check with the relevant benefit Decision Maker (DM) to establish the earnings limits and disregards appropriate.

Record details of any conversation with the DM on FRAIMS, see [FRAIMS guidance – Benefit Decision](#).

If the employer is seen, ask questions to establish whether the claimant knew about the partner's work for example has the claimant ever:

- been seen on the premises
- taken their partner to and/or from work
- reported the partner as sick
- collected the partner's wages or questioned the amount
- accompanied the partner at a social event

The replies may establish:

- the identity of the person working
- whether the claimant was aware their partner was working

If it cannot be established that the claimant was aware of their partner's work the investigator should interview the partner, see [Interviewing the Partner](#).

## **Non-dependants**

It is important to note that whilst non-dependants earnings may effect entitlement to Department for Work and Pensions (DWP) benefits, the earnings of any other person in the household may also affect Housing Benefit (HB) and needs to be referred to Local Authorities (LAs) for further investigation.

For Single Fraud Investigations, cases will be progressed in full by DWP. In these cases, the Investigator should obtain full details of non-dependant wages by issuing an EQ1 in order to determine the correct benefit entitlement.

## **Enquiries to third parties**

### **[Redacted]**

For further information regarding the action taken by the Compliance admin officer and authorising officer see: [AO10/EQ1](#), [AO14](#) and [MF67 \(link is external\)](#).

### **[Redacted]**

For further information regarding the action taken by the Compliance admin officer and authorising officer see: [AO10/EQ1](#), [AO14](#) and [MF67 \(link is external\)](#).

## **03 Self-employment**

### **Self-employed claimants**

1. If it is alleged that the claimant works for themselves, they may advertise their business in shop windows, local press or by word of mouth. For example, they may be running a business such as:

- buying and selling cars or mechanic
- building services such as painting and decorating, roofing, etcetera
- home services such as, cleaning, gardening, nannies, baby/dog and/or house sitting
- removal service or house clearance
- market trading or door to door sales
- mobile hairdressing, catering, ironing services, window cleaning.

This list is not exhaustive.

2. Consider if any further information, whether local knowledge or otherwise, can support the allegation. In particular, ascertain if the claimant has declared work.

3. If this is the case, consider if the allegation suggests more work than has been declared and whether an investigation is appropriate. Details of any further

information obtained must be recorded on FRAIMS, see [FRAIMS guidance – Contact from the employer](#)

### **Employment and Support Allowance and Incapacity Benefits**

4. In Employment and Support Allowance (ESA) and Incapacity Benefit (IB) cases where permitted work has been declared, consider if the allegation indicates if more work has been performed than has been declared. If so, continue with the investigation.

5. Test Trading is available in IB cases for an initial period of 26 weeks to those claimants who wish to try self employment under New Deal Programmes and claimants doing Test Trading will be classed as undertaking a Jobcentre Plus training provision so normal training rules will apply.

### **Obtaining further information**

6. Additional information may be available from other sources. If the claimant advertises their services in a local shop or a newspaper or uses any supplier, the investigator should consider obtaining a statement from the shopkeeper or newspaper.

7. This should be fully documented in the investigators official notebook (N1) and witness statement, PF11 / CI8S / QB1(S) and a summary noted on FRAIMS, see [FRAIMS guidance – Effective visit](#).

8. The statement should include details of:

- **[Redacted]**

**[Redacted]**

This list is not exhaustive and should include any information the investigator feels relevant.

9. If the referral details include names of third parties who enlisted the claimant's services, consider approaching them and secure witness statements on the PF11 / CI8S / QB1(S).

10. Consider if surveillance is appropriate. In the absence of any employment records, the use of video or photographic evidence may be appropriate, this may lead the investigator to previously unknown suppliers and/or third parties.

11. For more information on requesting directed surveillance see [Applying for Directed Surveillance authorisation](#).

## 04 Investigations

### Employer investigations

1. If the evidence of fraud points to the possibility of an active involvement by an employer:

- consider completing a Fraud Referral Form (FRF), selecting the tickbox 'An employer you think is assisting benefit fraud'
- when completing a FRF it is particularly important to secure as much information as possible to establish a case for specialist action
- consider taking action as outlined in [Employer Investigations](#)
- bear in mind that cash in hand does not necessarily indicate that an employer is involved in a fraud.

### Referring information to the decision maker

2. Where the information obtained suggests that the extent of the work being done may affect current benefit entitlement, a referral to the Decision Maker (DM) should be considered. Failure to do so may be deemed as condoning the offence.

3. If referral to a DM is considered appropriate, details of making the referral must be recorded on FRAIMS, see [FRAIMS guidance – Benefit decision](#).

### Evidence of earnings

4. It will be necessary to obtain a witness statement from the employer in order to exhibit the EQ1, in all cases where prosecution is considered.

5. In Scotland, investigators do not exhibit evidence and witnesses will have to attend court where the accused pleads not guilty.

6. The purpose of the witnesses attending court is to identify the accused and give their account even if they have made a witness statement.

7. The information contained in the EQ1 should be included in the employer's witness statement, which is admissible.

8. There may be times when the EQ1 does not, or cannot, meet the needs of a particular way of working, for example, a claimant who sub-contracts work and submits invoices for work and materials. In that event obtain a witness statement on the MG11 / PF11(S) explaining the work.

9. Further details can be found in [Witness Statements](#).

10. In England and Wales only, the provisions of Section 24 of the Criminal Justice Act (CJA) 1988 covers business records and similar documents that the individual will have referred to in their statement but may not have created the originals, for example, computer records.

### Witness statements

11. Where an investigator takes a witness statement MG11 / PF11(S) / CI8S from the employer they must:

- explain that initially the statement will be used to correct any benefit irregularity but



- in general, if the situation becomes such that legal proceedings are instigated it may avoid the need for court attendance by the person making the statement, except in Scotland where the witness will be required to attend court.

12. Be as honest as possible with the employer. Explain that a witness may be required to attend Court in certain circumstances.

## **Interviews Under Caution**

### **Interviewing the claimant**

13. The aim of questioning is to determine the facts. Questions should establish whether or not a claimant:

- is/was working
- is/was claiming benefit
- knew that benefit would be affected if the Department was aware of the details of the work.

14. The investigator should initially establish the claimant's level of understanding regarding the rules of entitlement and especially that the claimant knew that any work undertaken should be reported.

15. If such knowledge is not established, by the investigator at interview, it may be possible to obtain supporting evidence to show that the claimant knew they should have reported any work.

16. Failure to obtain such information may affect the possibility of formulating a charge on which to base any subsequent prosecution. For example:

- notifications to other departments
- previous informal interview statements or declarations of work
- previous investigations/interviews.

This list is not exhaustive.

### **Claimant explanations**

17. Claimants may offer a variety of explanations for failing to report work, for example:

- **[Redacted]**

**[Redacted]**

This list is not exhaustive.

18. The investigator should not accept explanations without first challenging them by critical questioning. Sometimes, it is the simplest of questions that are most difficult to answer.

19. Some questions that might be employed are:

- [Redacted]

[Redacted]

#### **Interviewing the partner**

20. If the claimant continues to deny knowing their partner was working, be prepared to interview the partner. It is possible to put an allegation to the partner under sections 111A, 111A(1B), 112 and 112(1B) of the SSAA 1992.

21. To do this an investigator must establish that:

- [Redacted]

[Redacted]

22. Never interview both the claimant and partner under caution at the same time. If the partner is present at the claimant's interview and implicates their partner, suspend the interview. The partner should then be interviewed separately.

23. For more information, see [Conducting the Interview Under Caution](#)

### **Jobseeker's Allowance Cases**

24. When the investigator is satisfied that the likely offence is serious enough to warrant a penalty if fraud is established, additional claim documents should be secured from the Jobcentre Plus office used by the claimant to claim benefit.

25. Local arrangements differ but generally the Jobcentre Plus office will, on request, supply the following forms:

- ES24 signing on coupons - if the declarations on these forms are proven to be false, they are used to form the basis of any charges put to the claimant
- ES40 signing off card – this can be used in the same way as ES24s. The claimant makes a statement on the ES40 which specifies the date they are starting work and the date they wish JSA to be paid up to. It also includes a statement that they have done no paid work for that period
- original claim form, for example, JSA 1.

26. Original ES24 signing on coupons, not copies, should be requested, covering the period of overpayment under investigation.

27. In addition, ensure the Jobcentre Plus records, both clerical and system held, are checked to ensure they do not contain information connected to the work under

investigation, if details are found the investigator must take that information into consideration.

28. There must be:

- evidence that the appropriate disregard is being or has been exceeded
- proof that the ES24 statement was untrue, and the claimant did work regardless of earnings.

29. To establish knowledge, action and intent, the investigator will have to establish that the claimant knew what they were declaring on ES24 and JSA1.