

**REPORT OF DEPUTY CHIEF EXECUTIVE & CORPORATE DIRECTOR FOR RESOURCES**

**DEPARTMENT FOR WORK AND PENSIONS CONSULTATION ON OPTIONS FOR THE INCLUSION OF LOCAL AUTHORITY BENEFIT FRAUD INVESTIGATION TEAMS IN THE SINGLE FRAUD INVESTIGATION SERVICE (SFIS)**

**1 PURPOSE OF REPORT**

This report advises the Committee on the outcome of the consultation on the options for including local authority fraud investigation teams into a unified single service within the Department for Work and Pensions (DWP).

**2 RECOMMENDATIONS**

To note the current position and proposed timeline for the creation of a Single Fraud Investigation Service.

**3 REASONS FOR CONSIDERATION**

In October 2010, the coalition Government announced plans to create a Single Fraud Investigation Service combining staff from local authorities Housing & Council Tax Benefit Investigation Teams, the Department for Work and Pensions and Her Majesty's Revenue and Customs, to investigate all fraud linked to the creation of payments that will be incorporated into Universal Credit from April 2013.

**4 BACKGROUND**

Since 1993 the Housing Benefit Service has had a Benefit Investigations Team to identify, investigate and to combat fraud and error.

There are currently a team of 10 officers dedicated to the investigation of benefit fraud. The team operate to the Criminal standard i.e. *Beyond reasonable doubt*, not the Civil standard *On the balance of probabilities*.

They operate under powers granted in the Social Security Administration Act 1992, extended under the Fraud Act of 2001 to grant authorised officer power status, this provides the legal gateway to access personal and sensitive data on individuals and households from financial institutions, utility providers, mobile phone companies, Sky, Virgin, employers etc.

The team have a range of punitive sanctions ranging from the classification and recovery of fraudulent overpayments, giving formal cautions, administrative penalties and prosecuting offenders.

On the 16<sup>th</sup> September 2011, the DWP launched a 4-week consultation exercise, closing on 14<sup>th</sup> October 2011. Nottingham City Council provided a formal response to the consultation.

Local authorities were asked to consider 4 suggested options, these being:-

- 1) Local Authority investigators remain employed by LA's but operate under SFIS powers policies processes and priorities.
- 2) Local Authority investigators remain in LA estate, employed by the LA and are formally seconded to SFIS.
- 3) Local Authority investigators become DWP employees but deliver investigation locally from the LA estate.
- 4) Local Authority investigators become part of the DWP working within DWP estate as employees.

On the 8<sup>th</sup> November 2011, the DWP published the response to the consultation; a summary report of the findings is attached as **Appendix 1**.

The overwhelming majority of respondents (76.6%) 210 out of 274 chose option 1 as the preferred delivery model covering the period from April 2013 until at least March 2015.

The results from the consultation formed the basis of a submission to Ministers on the 11<sup>th</sup> November 2011, the outcome of which and a decision on a delivery model will be announced prior to Christmas.

5. **BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING EXEMPT OR CONFIDENTIAL INFORMATION**

None

6. **PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

Department for Work & Pensions, Tackling fraud and error in the benefits and tax credits systems, published October 2010.

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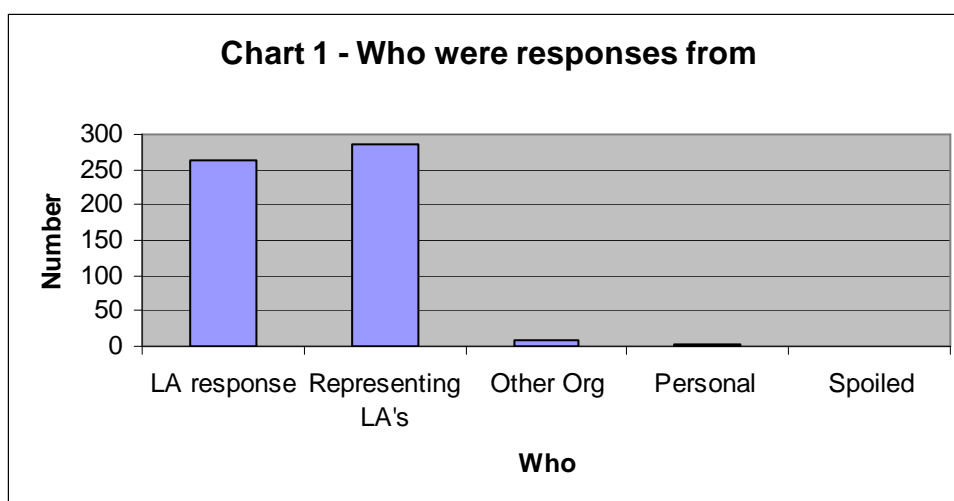
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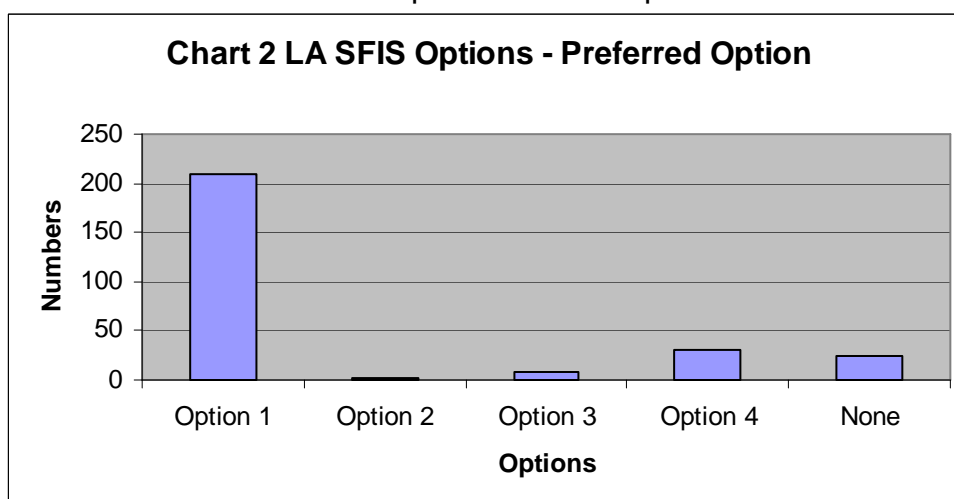
## Consultation on Options Paper for the inclusion of Local Authority Benefit Fraud Investigation Teams in the Single Fraud Investigation Service – Summary Report

### 1. Background

- 1.1 The coalition government's strategy for tackling welfare fraud and error, published in October 2010, set out a commitment to create a single fraud investigation service (SFIS) to investigate benefit and Tax Credit fraud. This commitment will be achieved by bringing together investigation staff from Local Authorities (LA), Department for Work and Pensions (DWP) and Her Majesty's Revenues and Customs (HMRC) to create a Single Fraud Investigation Service.
- 1.2 We issued a paper and consultation proforma to LA Chief Executives, Heads of Finance, Heads of Revenues and Benefits and other key stakeholders on 16<sup>th</sup> September 2011. The closing date for responses was 14<sup>th</sup> October 2011 and we received a total of 274 responses, of which 263 were LA responses, some combined and representing a total of 285 Local Authorities. This equates to 76% in favour of Option 1.



- 1.3 The consultation showed a clear preference for Option 1 as follows.



1.4 Unfortunately a small number of respondents (24 of the 274 responses received) felt unable to indicate a preferred option, either because of the perceived lack of information, particularly around funding, and specifically around the future of the LA Admin Grant; or because of the perceived lack of time; or both.

## 2. The Consultation

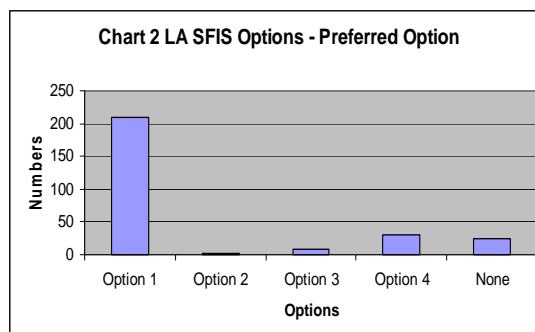
2.1 we asked the following questions

***Do you agree with our selection criteria? If not, please say why and if there are other criteria you think we should have considered please specify.*** – 198 responses agreed, 53 did not and 23 did not comment. The main reason for disagreeing was that there was insufficient detail around the funding regime, especially in terms of fully costed financial impact assessments of each of the options. There was a further concern in that the future of the administration and investigation of Council Tax has yet to be decided.

***Do you feel the initial DWP options analysis is fair? If not please let us know what we have missed or not given emphasis to.*** – 230 responses agreed, 40 did not and 4 did not comment. The main reasons for thinking DWP analysis was not fair were because of insufficient consideration of LAs position in relation to costs, funding & financial implications and because there is not enough information known about the DWP policies and procedures and the impact these will have financially or otherwise to assess. Comments were also made that the DWP analysis solely considered DWP viewpoint and therefore LAs could not decide if it was fair.

***Do you have a preferred option? If so which is it?***

Option 1: 210  
Option 2: 2  
Option 3: 8  
Option 4: 30  
Could / would not say: 24



***Why is this your preferred option / what is particularly good about it*** – a summary of the responses to each option follows in section 3

***Please provide any other feedback on the options if you wish*** – a summary of the responses to each option follows in section 3

## 3. The Options

3.1 There were four options in the paper. These are summarised below with a short paragraph encapsulating views from the consultation exercise.

**3.2 Option 1.** LA staff remain employed by LAs, but operate under SFIS powers, policies, processes and priorities. This brings LA investigation staff into SFIS under a procedural change. By leaving employment and location unchanged this option would allow LAs the flexibility to redeploy resource to meet other LA priorities if required.

**This option received 210 responses in favour.**

**3.2.1 A summary of reasons for preferring this option:**

3.2.2 It was felt that this option provided the most flexibility, especially in allowing LA staff to consider other types of fraud, and in developing piloting and testing ways of working. It was recognised that this approach was the most pragmatic and achievable in the timescales. There was strong support for this option when considering the localism agenda and in allowing a more local focus. Many LAs preferred this option because of the potential to retain existing expertise and experience, and allows for continuity with existing cases. The option was perceived to have the lowest impact on the staff and to allow gradual transition to new IT, referral or operating systems. Several LA's reflected that this option allowed for closer working with HMRC and FIS, thus developing new skills. Most significantly it was felt that, as this option did not require changes to the LA Admin grant, it was therefore the most affordable option.

**3.2.3 Key concerns around this option included:**

3.2.4 Most LAs were concerned by the fact that this paper did not include a breakdown of the costs involved with each option. Obviously a detailed financial impact analysis will need to be completed before the preferred Option is implemented and work on this, and on the future of the Benefit Administration Grant is part of the organisational design work now beginning. LAs feel that they cannot support the investigation of Welfare fraud unless adequate funding is in place.

3.2.5 Other issues raised included the treatment of staff currently contracted out; which staff are included, management and support, financial investigators or just investigators; data protection / data sharing issues; IT considerations; prosecution policies, Tax Credit investigations; and managing performance. These are all issues which will be part of the detailed organisational process which is just beginning.

3.3 **Option 2. LA staff remain employed by LAs in LA estate but are seconded to the DWP** - this option means all LA investigation staff remain LA employees based in LA estate under formal secondment to DWP and operate under SFIS powers, policies, processes and priorities. This brings LA investigation staff into SFIS under both management and procedural changes. This option would allow LAs a degree of flexibility to recall and redeploy resource to meet other LA priorities, under the terms of the secondment agreement if required.

**This option received 2 responses in favour.**

**3.3.1 A summary of reasons for preferring this option:**

3.3.2 The main factor in favour of option 2 is the clear line of responsibility that comes with seconding staff. It is seen as a first step towards Option 4.

**3.3.3 Key concerns around this option included:**

3.3.4 That secondment is perceived as 'neither one thing nor another' and this option is seen as providing the least certainty or security for staff,

**3.4 Option 3.** LA staff become DWP employees but deliver investigation locally from the LA estate - this option means all LA investigation staff become DWP employees based in LA estate and operate under SFIS powers, policies, processes and priorities. This brings LA investigation staff into SFIS under both management and procedural changes.

**This option received 8 responses in favour.**

**3.4.1 A summary of reasons for preferring this option:**

3.4.2 It was felt that this option retained local knowledge, was not a draw on LA resources and allowed for common management structure and IT systems which would be beneficial to the organisation and to staff.

**3.4.3 Key concerns around this option included:**

3.2.1 The main concern was the impact this option would have on resourcing in the LAs. There were also concerns around the extra new burdens cost of accommodation for SFIS staff.

**3.5 Option 4.** LA staff become part of the DWP working within DWP estate as employees - this option means all LA investigation staff become DWP employees based in DWP estate and operate under SFIS powers, policies, processes and priorities. This brings LA investigation staff into SFIS under both management and procedural changes.

**This option received 30 responses in favour.**

**3.5.1 A summary of reasons for preferring this option:**

3.5.2 The main pluses of this option appeared to be that it provides a clean break, clear management lines and removes uncertainty. It was felt that it was logical that SFIS should sit alongside the Department responsible for Universal Credit. Option 4 is seen as a long term approach and the only one that delivers a "true uniform service".

**3.5.3 Key concerns around this option included:**

3.5.4 The main concern with option 4 was the potential cost and staff impact. However many LAs were also worried about the impact on the localism agenda.

#### **4. Other Suggested Options**

4.1 The other option most often mentioned was to arrange matters so that LAs manage SFIS. In some cases this was local area specific such as Bournemouth below, and in others it was wider, in that Local Authorities would take responsibility for administering SFIS and all Universal Credit fraud. The main rationale for this was that it would accord with the Government's localism agenda and exploit the wealth of local data and expertise held by local authorities.

### **Box 1 - Alternative Option from Bournemouth**

It would have been interesting to have had the option that Bournemouth Council be given the opportunity to manage the Bournemouth area investigation teams for both the LA and DWP investigations. LA investigation methods and results have produced good results and may be less restrictive than prescribed procedures issued nationally. Local management of these teams (LA and DWP fraud teams) by Bournemouth Borough Council may be able to deliver the service in a way that is more flexible and adapts more readily to local requirements. Bournemouth Borough Council's prosecution policy is less prescriptive than the DWP version, based more around the evidential and public interest tests than financial thresholds.

- 4.2 Another option proposed was that a brand new National team be created to consider all types of Public Sector fraud, including other LA fraud. It has been suggested that it would have regional offices, and there may be a need to develop new legislation and investigative powers. This option was suggested by several respondents and may warrant further investigation.

### **Box 2 - Alternative Option from IRRV: Scope for a Specialised Public Sector Fraud Protection and Detection Organisation**

The Institute is disappointed that the wider problem of public sector fraud is not being addressed. It is the Institute's view that the Government should give serious consideration to the creation of a specialised public sector fraud protection and detection organisation. This body could be named the National Public Sector Fraud Investigation Service. It would draw together all fraud and investigation units in the public sector and form them into one national team.

It should be developed as a non-departmental public body and should include the investigative services from the DWP, HMRC, NHS, DVLA, local government and any other public sector investigation organisation.

The Institute is also of the opinion that the recent changes in the development of the SFIS has placed the ideal candidate to carry this forward in a position of influence – Lyn McDonald, who as Programme Director of the Tell Us Once Project delivered an effective joined-up service. The Institute believes that the extent of public sector fraud identified by the National Fraud Authority justifies this radical approach. If this new body were considered a viable option, the Institute would respectfully suggest that the involvement of local authority benefit fraud services in SFIS should be delayed until 2015.

### **Box 3 - Alternative Option from Edinburgh**

Set up a National Team to look at all areas of Public Sector Fraud and have regional offices based perhaps in Local authority premises. Would need to develop new legislation and powers. Recruitment could be competitive and would be a brand new agency. Perhaps run by NFA. Data sharing issues.

## **5. General Comments / Issues / Concerns**

- 5.1 Understandably many LAs are concerned about the funding issue and the continuation of the Benefits Administration Grant. Obviously a detailed financial impact analysis will need to be completed before the preferred Option is implemented and work on this, and on the future of the Benefit Administration Grant is part of the organisational design work now beginning.

- 5.2 Another concern was around prosecution, both policy and the body responsible. There is a perception that Prosecution Division (PD) are very slow and lose a lot of DWP cases compared to LA local arrangements, and a concern that CPS – if the proposed move of PD to CPS happens - will not cope with the increased workload. This will be a major issue to resolved in the organisational design.
- 5.3 LAs have expressed a concern around their capacity to investigate other LA fraud once SFIS is operational.
- 5.4 There is strong concern about the localism agenda. One LA said “The NFA is producing its Local Government Counter Fraud Strategy in the Autumn 2011. Any work to develop the SFIS should be done in conjunction with the NFA’s strategy”.
- 5.5 There was criticism both on the length of the consultation and on the length of time it has taken to reach this point. Several LAs also expressed concern about the perceived lack of consultation to date although many were pleased to be given the chance to comment and looked forward to stronger engagement going forward. A few felt that the consultation was “an attempt to placate local authorities rather than a genuine attempt to engage in a meaningful dialogue”, but many others welcomed both the opportunity to be involved and also DWP attendance at recent IRRV events.
- 5.6 There were concerns around staff, specifically:
- Will 2013 arrangements for the transfer of LA staff to the DWP still exist in 2015?
  - Current plans indicated that in 2013 LA staff would be TUPE’d over to the DWP, but if under Universal Credit fraud diminishes, what will happen? Are the DWP going to say that LA staff are no longer required? And who then bears the cost of potential redundancies for LA staff?
  - If there is a need to reduce Fraud staff will LA staff be treated fairly and equitably with DWP staff given that all are working under SFIS?
  - There is a suggestion that the DWP are going to continue with their plan to recruit 200 extra staff in 2013 – where are these staff going to be based? Why is the DWP not filling the 200 posts with LA staff then considering whether further staff will be required?
  - Which staff are actually included, a decision needs to be reached and communicated very quickly on this.
- 5.7 All of these very valid concerns will be addressed in the organisational design process.

## **6. Volunteers for pilots or closer working**

Several LAs emphasised their desire to work very closely with DWP and HMRC either in running joint working pilots, SFIS trials or pathfinders or simply in developing the organisational design of SFIS. The DWP is encouraged by this and keen to work collaboratively to develop opportunities now and in the future.