

Report by the  
Benefit Fraud Inspectorate

***Bridgnorth District Council  
Security Against Fraud and Error  
Inspection***

September 2005



Highlighted parts of this report are omitted from the published version as they may assist fraudsters or may contain confidential commercial information.

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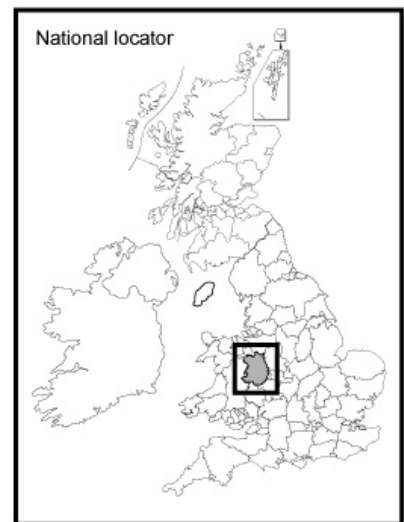
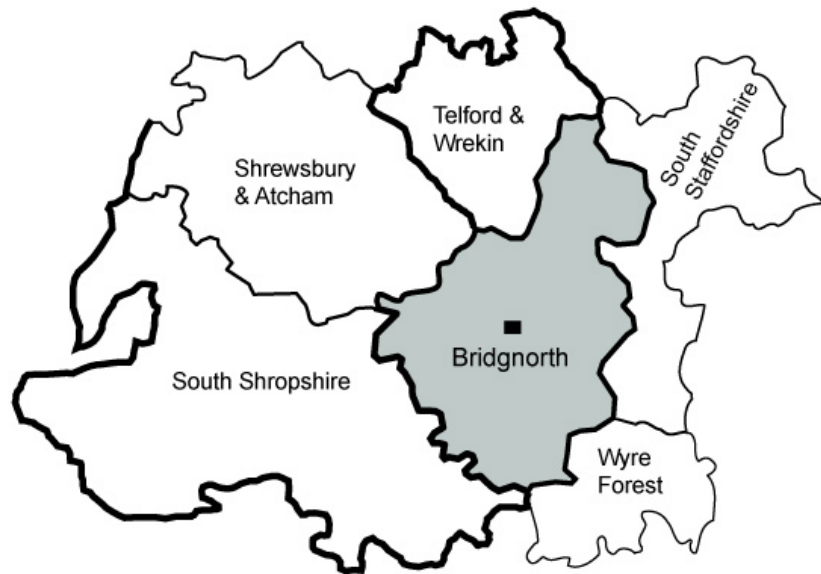
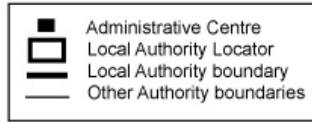
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The maps on this page show the area covered by Bridgnorth District Council in relation to neighbouring authorities, and its geographical location in the country.



# Abbreviations

All abbreviations used in this report are written in full when they are first used. For easy reference the more commonly used abbreviations are listed below.

<b>BFI</b>	Benefit Fraud Inspectorate
<b>CTB</b>	Council Tax Benefit
<b>the Department</b>	Department for Work and Pensions
<b>HB</b>	Housing Benefit
<b>SAFE</b>	Security Against Fraud and Error



# Executive summary

## Introduction

1.1 The role of the Benefit Fraud Inspectorate (BFI) is to inspect benefits administration and counter-fraud activity within local authorities, the Department for Work and Pensions (the Department) and its agencies. The findings from our inspections are reported to the Secretary of State.

1.2 Housing Benefit (HB) and Council Tax Benefit (CTB) are important contributions to many household budgets. Just under 4 million people receive HB, including many pensioners and families with children. It helps one in 6 households meet the cost of their housing at an annual cost of £12.1 billion. There are over 4.6 million people in receipt of CTB, at a cost of over £2.8 billion.

1.3 In its response to the *Housing Green Paper* of November 2000, the Department agreed to develop a performance framework for HB. BFI played a major role and the HB and CTB Performance Standards were launched and published in April 2002. They are standards the Department expects local authorities to aspire to and achieve in time. Every local authority has received a copy of the Standards and receives amendments when changes are introduced. Following a major review, a revised set of Performance Standards was published in March 2005. Local authorities are required to provide annual self-assessments against them.

1.4 The Performance Standards allow local authorities to make a comprehensive self-assessment of whether they deliver benefit effectively and securely. While the Department has chosen to consider the full picture of what constitutes an effective and secure Benefits service that meets wider strategic objectives, this does not preclude inspections of specific aspects of HB and CTB administration.

1.5 This report reviews the counter-fraud performance of Bridgnorth District Council and the validity of the financial rewards the council has claimed under the Security Against Fraud and Error (SAFE) scheme.

1.6 In the April 2004 Comprehensive Performance Assessment report we found that Bridgnorth District Council's Benefits service was providing a *Fair Towards Good* performance. The council had assessed itself as fully meeting Standard in the Counter-fraud area and although we did not agree with this assessment, we found that Bridgnorth District Council had a number of strengths. In its latest self-assessment, in preparation for this inspection, the council indicated that it was at Standard in 84 of the 89 components of the Counter-fraud functional area.

1.7 As part of our inspection we:

- examined a random sample of 30 cases that had resulted in sanctions
- examined a random sample of 5 fraud overpayment cases where no sanctions had been applied
- recommended steps the council needs to take to improve performance.

1.8 We have supplemented our analysis of fraud cases with information from interviews with managers, staff and key stakeholders.

1.9 We would like to thank the management and staff of Bridgnorth District Council for their considerable help and support throughout during this inspection, the on-site phase of which took place in May 2005.

## SAFE inspections

1.10 The SAFE scheme was introduced in April 2002 and was described as:

*... a new anti-fraud and error incentive scheme that reflects the Department's overall strategy to reduce incorrectness in the administration of HB and CTB. The emphasis is firmly on the identification of all overpayments, without bias towards either fraud or error.*

1.11 Another element of the scheme is to give local authorities greater financial rewards for outcome-driven fraud activity. The scheme was designed to provide a more wide-ranging approach to tackling fraud and error in HB and CTB. Key elements include:

- prevention – offering higher incentive payments to local authorities that comply with the Verification Framework, as recognition of their efforts to prevent fraud entering the system
- detection – offering incentive payments to local authorities for the identification of both fraud and error overpayments
- sanctions – offering incentive payments to local authorities, not only for successful prosecutions but also for issuing an administrative penalty or formal caution.

1.12 Local authorities are able to claim payments for the following sanctions activity:

- formal cautions issued and accepted
- administrative penalties issued and accepted
- information laid with a court and the court issuing a summons
- successful prosecutions.

1.13 In order to qualify for the appropriate incentive payment local authorities have to ensure:

- the appropriate procedure for administering sanctions is followed
- an audit trail is kept to show checks have been made for any previous convictions.

## Background

**1.14** More than 52,000 people live in the Bridgnorth district, an area covering approximately 63,500 hectares (245 square miles) of southeast Shropshire. The town of Bridgnorth itself is the largest settlement within the district, with a population of approximately 11,500.

**1.15** Bridgnorth District Council's annual HB and CTB expenditure in 2004/05 was approximately £8.4m. There were some 3,300 residents in receipt of CTB and 2,300 in receipt of HB.

**1.16** This inspection focused on the council's efforts to deter, prevent and detect fraud, and to deal with it when it is detected. We have reported on areas of good practice identified and, where appropriate, made recommendations to improve the quality of Bridgnorth District Council's application of the SAFE scheme as it relates to sanctions.

## Overall performance

**1.17** Bridgnorth District Council's latest self-assessment against Performance Standards indicated that its counter-fraud operation was not at Standard. We agree with this assessment. However, the council had a strong anti-fraud culture and a number of strengths in this area.

**1.18** Bridgnorth District Council gave a high priority to combating benefit fraud and was Verification Framework compliant. There was a commitment at all levels within the council to deter and prevent fraud and comply with the SAFE scheme.

**1.19** The Fraud Team was well motivated and had achieved a high output of sanctions and prosecutions, particularly in relation to the caseload. This was very impressive in comparison with other similar sized local authorities. Surveillance activities had been undertaken correctly and authorised officer powers used appropriately. We were satisfied that incentive payments under the SAFE scheme had been properly claimed.

**1.20** However, Bridgnorth District Council had no written procedures covering counter-fraud work and there was limited management checking. XXXXXXXX  
XX  
XXXXXXXXXXXXXXXXXXXX. In addition, there was only limited publicity of successful prosecutions.

## Summary of findings

**1.21** Bridgnorth District Council's Benefits service Strategic and Operational Plan was supported by the Anti-Fraud Strategy, Prosecution Policy and the Fraud Section Service and Business Plan and stated that:

*the council is committed to the prevention, detection, deterrence and investigation of all forms of fraud and corruption, including debt recovery, prosecution and the application of penalties. It is also committed to providing a service that is timely, courteous, customer focused, professional and treats all fairly.*

**1.22** Bridgnorth District Council had a history of prosecuting fraudsters even before the introduction of financial incentives through the SAFE scheme. While the total number of sanctions against fraudsters had not varied significantly over the 3 years since 2002, the proportion represented by each type of sanction had changed considerably. There had been a marked shift away from formal cautions towards the application of administrative penalties.

**1.23** Benefit assessment staff generated a high number of fraud referrals and there were a number of good practices within the Fraud Team, such as well-structured interviews under caution. Although we found some weaknesses in earlier fraud investigations we were satisfied that these weaknesses had since been addressed.

**1.24** Some improvement was needed in the way that fraud files were maintained and in the arrangements for retaining fraud referrals not investigated. While decisions on sanctions were mainly in line with the council's Prosecution Policy, the reasons for particular decisions were not recorded and there was limited management checking of fraud investigation work.

**1.25** While there was no indication that any of these issues had adversely affected the effectiveness or outcome of fraud investigations, weaknesses in these areas reduced the assurance provided to senior managers about the quality of counter-fraud work.

**1.26** The council responded positively to our findings and agreed to consider many of the issues we identified during the course of the inspection. It also had a draft Counter-fraud action plan and timetable to ensure that it fully met Performance Standards in this area.

# Independent assurance

## Internal Audit

2.1 Internal Audit provides assurance to managers and Members about the effectiveness and security of HB and CTB administration.

2.2 Bridgnorth District Council assessed itself as not at Standard in this element. We agree with this assessment.

2.3 Performance Standards require Internal Audit to assess the council's HB and CTB administration functions against Performance Standards. Internal Audit conducted yearly reviews on HB and CTB administration. However, this did not include an assessment of performance against Performance Standards.

2.4 Figure 2.1 shows the number of Internal Audit days allocated and actual days used during the period April 2002 to March 2005.

**Fig. 2.1: Bridgnorth District Council's Internal Audit activity**

	2002/03	2003/04	2004/05
Total number of Internal Audit days allocated (all services/departments)	420	420	420
Total number of Internal Audit days used (all services/departments)	420	420	420
Number of Internal Audit days allocated to HB and CTB administration	20	20	20
Number of Internal Audit days used on HB and CTB administration	20	20	20
Number of Internal Audit days allocated to counter-fraud work (including National Fraud Initiative related work)	Included in above	Included in above	Included in above
Number of Internal Audit days used on counter-fraud work (including National Fraud Initiative related work)	Included in above	Included in above	Included in above

Source: Bridgnorth District Council

2.5 Whilst no specific allocation was made for counter-fraud work, Internal Audit regularly looked at this area and included comment in the annual report. For example, in the 2002/03 report Internal Audit found that fraud file documentation and reporting of successful prosecutions was satisfactory. In the same report, Internal Audit noted that reports on counter-fraud work were being included within the annual service plan submitted to Members as part of the budget cycle.

2.6 In the 2004/05 report it was noted that there was no formal training log for fraud investigators but, as this was being addressed, no recommendation was made.

2.7 Copies of Internal Audit reports were sent initially in draft form to the relevant head of service and in final form to the relevant director and the Section 151 Officer, the chief financial officer under the Local Government Act 1972. Heads of service had to provide quarterly reports on progress against recommendations and these were submitted to the overview and scrutiny committee.

## Recommendations

**We recommend that Bridgnorth District Council ensures that Internal Audit uses Performance Standards to assess the performance of the Benefits service and the Fraud Team.**

## External Audit

2.8 External Audit has a statutory duty to report on the arrangements that the local authority has in place to secure economy, efficiency and effectiveness in its use of resources. It also gives independent assurance on matters relating to the accounts, and reports on the local authority's arrangements to secure propriety. Local authorities must act on this independent advice and assurance, while having their own systems of assurance. They cannot rely on External Audit to identify faults.

2.9 Bridgnorth District Council assessed itself as not at Standard in this element. We agree with this assessment.

2.10 Following the self-assessment against Performance Standards, Bridgnorth District Council drew up an action plan to identify what was needed to reach Standard in this element. In particular, to meet the requirement that the authority responds to the annual certificate of accounts and HB and CTB subsidy claim, the council proposed to:

- plan how we will monitor the progress of the action plan and adjust it accordingly
- develop a reporting mechanism to Members on the progress of the plan.

2.11 The target date for completion of this work was September 2005.

2.12 External Audit carried out an annual review of Internal Audit at Bridgnorth District Council in accordance with the Audit Commission's Code of Audit Practice. This was to ensure its work met the appropriate professional standards and supported the system of internal financial control. In doing so, External Audit applied a risk-based approach using the Audit Commission's National Risk Assessment Tool. External Audit told us it was satisfied with the coverage of Internal Audit's work and with the assurance it provided.

2.13 External Audit told us that its audit of Bridgnorth District Council's subsidy claim was carried out as specified in the Certification Instruction, which was agreed by the Audit Commission and the Department. The audit

validated the financial amounts claimed and confirmed that the sanction taken was supported by key documentation.

**2.14** Members did not receive copies of External Audit reports but were sent copies of the annual audit letter. No concerns relating to counter-fraud had been raised in the last few years.



# BFI findings

## Vision

**3.1** A statement expressing the strategic vision for the Benefits service enables Members, managers and staff to have a clear sense of direction, purpose and focus for their work. It also allows the public to understand where the key priorities for the service lie and how these fit into the overall vision and strategic objectives of the council. In particular it sets out how the vision relates to the council's strategy for dealing with benefit fraud.

**3.2** Bridgnorth District Council's vision, as set out in its corporate Community Strategy, was for *a safe and sustainable high quality rural district for people and communities*. To achieve this vision the council had identified 4 main aims:

- **Improving the Economy** – to promote diversity of opportunity and broaden and promote growth and employment
- **Protecting the Environment** – use natural resources wisely and develop sustainable communities, and look after the countryside and buildings
- **Encouraging Learning for Life** – to support education and training and offer a variety of opportunities for self improvement
- **Supporting Community Well Being** – to develop communities that are healthy, safe, creative and caring, and encourage community participation to achieve this.

**3.3** The Benefits service played a role in achieving these corporate objectives by providing financial assistance to those who might not otherwise be able to afford housing or to pay their Council Tax. One of the aims of the Benefits service was to:

*achieve high standards of accuracy and detect, investigate and deter fraud and error by identifying areas of risk and taking appropriate action to reduce those risks and sanction appropriate fraudsters.*

**3.4** The council also had a Fraud Section Service and Business Plan that outlined how the aims of the Fraud Team linked to the corporate Community Strategy. These aims were to:

- *continually monitor and develop the services we provide comparing our performance with others*
- *work jointly or in partnership with other agencies, organisations and other local authorities to enhance service delivery*
- *deliver a quality service for both the community and other Council sections and departments*

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**BFI findings**

- *complete and evaluate the Performance Standards, including the construction of action plans*
- *prepare, research and complete a self-assessment for Comprehensive Performance Assessment*
- *maintain a comprehensive training programme for all staff*
- *Policies and procedures.*

**3.5** Local authorities should have specific counter-fraud policies, built on the policy objectives of the authority as a whole. These policies should be supported by comprehensive procedures to ensure effectiveness and consistency in:

- investigations
- recovery action
- sanctions.

**3.6** Bridgnorth District Council assessed itself as not at Standard in this element. We agree with this assessment.

**3.7** The council's fraud policy stated that:

*Bridgnorth District Council is committed to the secure delivery of Housing Benefit and Council Tax Benefit to its community. Benefits are for those who are most vulnerable in society and should be assessed and paid in line with Government guidelines. The council is committed to ensuring that customers get the benefits to which they are entitled. However, the Council acknowledges that some people will attempt to obtain benefits to which they are not entitled. Sometimes this is done with planning and intention. This Strategy Statement and Prosecution Policy represents a commitment by the Council to implement a robust anti-fraud strategy in order to protect public funds and to ensure that benefits are delivered to those who have a true entitlement to them.*

**3.8** In addition, the council had a range of policies that supported its overarching commitment to combating fraud. These included:

- a corporate Anti-Fraud, Corruption and Malpractice Policy
- a corporate confidential reporting (whistleblowing) policy that provided a framework for staff to raise concerns about colleagues and Members
- a Fraud Section code of conduct
- a Prosecution Policy.

**3.9** The council's Prosecution Policy stated that:

*Bridgnorth District Council is committed to protecting public funds through its action against fraud. Where evidence that a claimant of Housing and/or Council Tax Benefit has been involved in perpetrating a fraud against the Council and sufficient evidence exists to sustain a prosecution with a realistic prospect of conviction, then the Head of Revenues Services will first consider, on behalf of the Council, whether it is in the public interest to undertake a prosecution.*

**3.10** The Prosecution Policy included guidance on the factors to be considered when deciding on prosecution or an alternative sanction but set no specific financial levels. Instead, the policy stated that, *guidance would be sought from the current Department's amounts when a decision was being made*. We were told that although no financial parameters were included in the Prosecution Policy, guidelines for reaching a decision on sanctions had been agreed by the council. These showed that formal cautions were more likely when the overpayment was under £500 and a prosecution more likely when the overpayment was over £1,000.

**3.11** The policy also referred to age being a consideration when deciding on prosecution. But our sampling revealed one case involving a customer aged 81 where the council was prepared to bring a prosecution. It was clear from this, that account was taken of the physical and mental effects of age, rather than age itself.

**3.12** Bridgnorth District Council aimed to ensure consistency with the Prosecution Policy by using a formal decision making procedure. But the Prosecution Policy, as drafted, allowed for considerable discretion and we found that the reasons for reaching decisions on individual cases were not fully recorded.

**3.13** The Fraud Section Service and Business Plan included details of the aims and objectives of the section, together with the way in which investigation work would be undertaken. The latter included the use of data matching, the National Fraud Hotline and proactive fraud drives. The plan also contained details of joint working with others such as Jobcentre Plus, the National Anti-Fraud Network and the Local Authority Investigation Officers' Group.

**3.14** The Service and Business Plan also contained a provision for the setting of targets but, apart from the overarching aim of complying with Performance Standards, none had been set for 2005/06. Bridgnorth District Council told us that this was due to the dangers of setting Fraud Investigators specific targets for sanctions.

**3.15** Performance Standards require council procedures to provide an accurate and up-to-date guide to actual practice. Bridgnorth District Council told us that it did not have any written procedures covering counter-fraud work but aimed to have these in place later in 2005.

## Recommendations

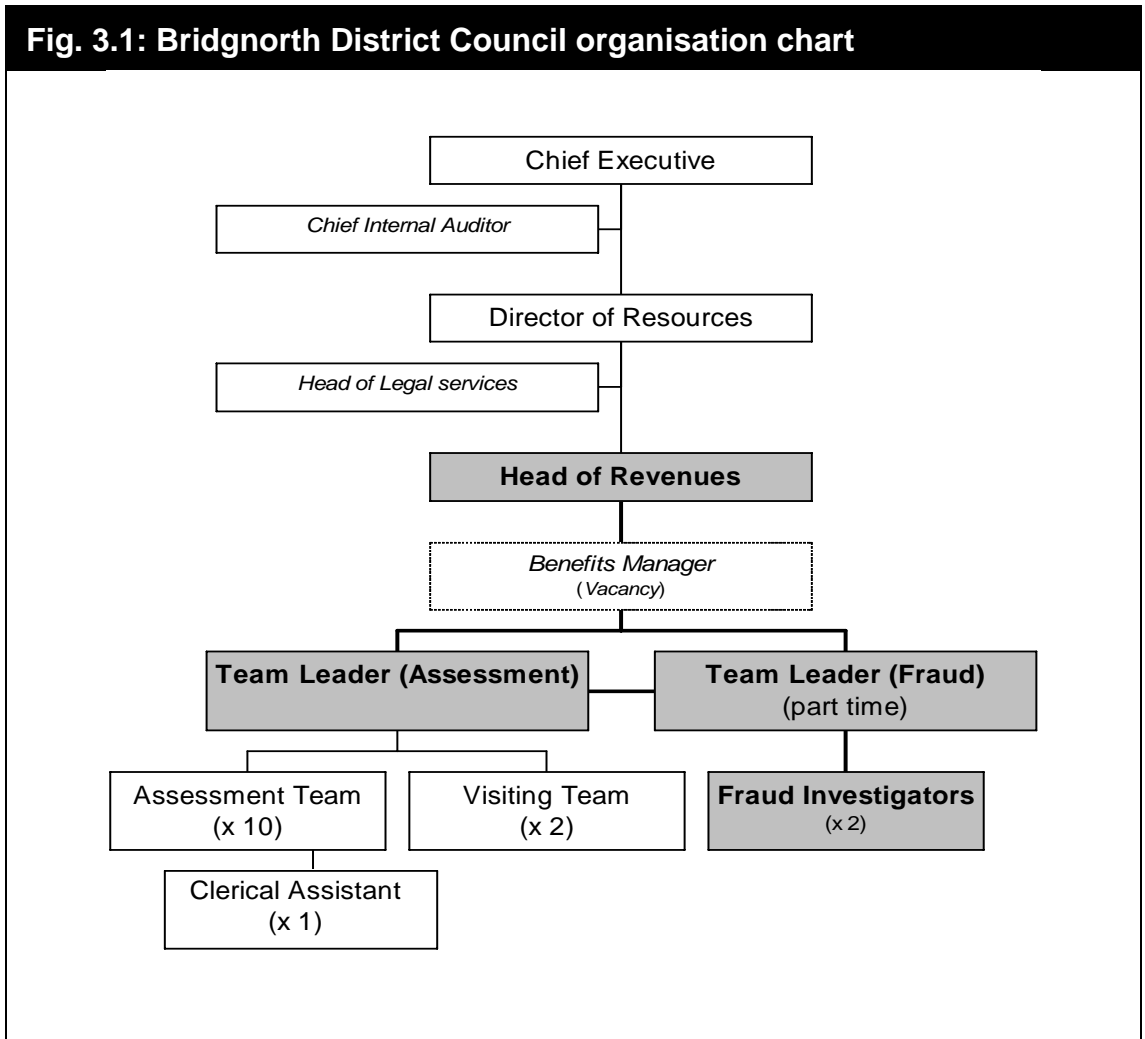
**We recommend that Bridgnorth District Council introduces detailed procedural guidance to provide an accurate and up-to-date guide to actual practice.**

## Organisational structure

**3.16** Up to autumn 2004, a Benefits Manager, reporting to the Head of Revenues, had managed the Fraud Team. Following the departure of this manager, it was decided not to fill the post until the details of a proposed partnership arrangement with a neighbouring council had been clarified. Instead, the Head of Revenues had assumed interim overall responsibility for

the Fraud Team, with the Assessment Team Leader providing the Fraud Investigators with day-to-day operational guidance. In January 2005, the Fraud Team Leader from the potential partner was seconded to manage Bridgnorth District Council's Fraud Team. But this was only on a part-time basis, 2 days a week.

3.17 Figure 3.1 outlines the structure of Bridgnorth District Council's organisation at the time of our on-site visit in May 2005.



Source: Bridgnorth District Council

## Quality of investigations

3.18 It is important that investigations are focused to make best use of the resources available, to ensure that each case is thoroughly investigated and that proper consideration is given to recommending closure or sanction.

3.19 The 2 Fraud Investigators were Professionalism in Security accredited. They had gained significant experience both within Bridgnorth District Council and elsewhere and displayed commitment, enthusiasm and receptiveness to new ideas and new ways of working. These factors underpinned their ability to conduct investigations of good quality, allowing the council to maintain a high sanction success rate.

**3.20** In the cases we sampled, we found documentary evidence of effective liaison and day-to-day working relationships with the Department's Counter-fraud Investigation Service, other government agencies and with adjacent local authorities and community organisations. This evidence showed that joint working was effective and that joint interviews under caution had taken place.

## *Referrals*

**3.21** Successful counter-fraud work depends on investigators receiving high quality referrals, covering a range of types of allegation from a variety of sources and containing sufficient information to allow investigations to be started. Bridgnorth District Council received significant numbers of referrals, the majority of which were of good quality.

**3.22** The council's success in encouraging referrals was a primary factor in its good performance in investigating fraud and applying sanctions. We were told that the Fraud Team gave regular fraud awareness talks and that fraud was a standing item for the Assessment Team's monthly meetings. The volume of referrals made by the council's staff demonstrated the success of these efforts.

**3.23** There were no defined criteria for sifting referrals and the various factors considered when making the decision to investigate were not documented. The Fraud Investigators decided whether to investigate or not, based on the information supplied in the referral. We were told that they investigated all referrals where HB or CTB was, or had been, in payment and the allegation in the referral was sufficiently detailed.

**3.24** We were told that where there was no HB or CTB interest in a referral, checks would not normally be made to ascertain whether other benefits, such as Income Support or income-based Jobseeker's Allowance were in payment. Our sampling however indicated that, on occasions, such information sharing had taken place. These checks should be routine and referrals passed to the other agencies where appropriate.

**3.25** Although still at a very early stage, the Fraud Team had begun to perform analyses of the referrals received and their eventual outcomes. This was a clear indication of the positive and proactive approach that the Fraud Team had adopted towards its work. However, the good practice guidance set out in Performance Standards recommends referrals to be routinely monitored and reported on and this was not being done.

## *Record keeping*

**3.26** Performance Standards require that records relating to fraud investigations are kept in accordance with the:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 1998.

**3.27** All persons charged with investigating offences must have due regard to the Code of Practice of the Criminal Procedure and Investigation Act 1996.

This Code of Practice lays down a number of general and specific responsibilities for investigators on how to carry out investigations and the recording and retention of material.

**3.28** We found that Bridgnorth District Council's fraud staff complied with these requirements in terms of the information kept. The physical files for all of our sampled cases contained a clear summary of the facts established by the investigation.

**3.29** Details of each investigation were maintained through a combination of information held on the council's fraud case management IT system, scanned images on the council's document management IT system and original paper documents held on paper files. Separate paper files were created for each investigation and any files from previous investigations of the same customer were retrieved and kept with the new file. No checks were made to ensure that all these separate records for a single investigation were reconciled and there was no overall record kept of what information existed for each case.

**3.30** We found that the contents and condition of the files that we examined were often unsatisfactory. Multi-page documents had not been stapled together and papers were rarely attached to the files using treasury tags or similar means. The Department's guidance on the structure of fraud files had not been followed and we found inconsistencies in file content. There was no standard check sheet to record the decision making processes at key stages in the investigations.

**3.31** We found inaccuracies in the information recorded. Among these were failures to record the dates that referrals were received by the Fraud Team and not entering the results of prosecutions on the fraud case management IT system.

**3.32** All referrals received that contained insufficient information to justify the opening of investigations were kept in a single file. We examined this file and found the contents in poor condition. It did not always show why referrals had not been investigated and it did not cross refer to any previous allegations against the same customer. In addition, new referrals were not routinely crosschecked against this file. The file was not held securely and we were told that it was only retained for statistical purposes. If such confidential information is to be retained, then the council should ensure that the requirements of the Data Protection Act 1998 are met.

## **Recommendations**

### **We recommend that Bridgnorth District Council:**

- **introduces a standard file structure and a standard contents list, segmenting information according to its nature**
- **specifies how information held on the case and document management IT systems should be cross referenced to the paper files**
- **determines the purpose for which it retains referrals not investigated and ensures that the way in which these are retained meets the requirements of the Data Protection Act 1998.**

## *Interviews under caution*

**3.33** The Police and Criminal Evidence Act 1984 and the associated statutory codes of practice, require investigators to caution individuals before interviewing them, when reasonable and objective grounds for suspicion exist that they have committed an offence.

**3.34** Bridgnorth District Council's Fraud Investigators had a sound understanding of the relevant sections of the Police and Criminal Evidence Act 1984 and its codes of practice. Our sample showed that Fraud Investigators invited customers to an interview under caution as soon as they believed that an offence had been committed.

**3.35** Interviewees were invited to read a notice, which explained the context of the interview, the caution and their rights. In all cases, Fraud Investigators ensured that persons being interviewed understood the caution by asking them to confirm what it meant in their own words.

**3.36** In one case we sampled where the customer said that they were unable to read the notice due to dyslexia, the interviewing officer read it out in full before proceeding. The interviewing officer also spent time checking this interviewee understood the caution and their rights.

**3.37** Bridgnorth District Council's interviews under caution demonstrated compliance with the Police and Criminal Evidence Act 1984 and its codes of practice in a number of ways, including:

- keeping a copy of the Police and Criminal Evidence Act 1984 codes of practice in the interview under caution room and giving interviewees the opportunity of referring to them
- asking third parties to identify themselves
- ensuring that interviewees signed the master tape seal and explaining the process of handling master and working copy tapes.

**3.38** The interviews under caution also demonstrated a number of good practices, including:

- confirming on tape that the tapes used for the interview had been unwrapped in the presence of the interviewee
- explaining the role of any third party in the room during the interview.

**3.39** We found in our sample that Fraud Investigators, as required by the relevant Police and Criminal Evidence Act code of practice, were careful not to imply that any admission would result in a lesser sanction and they did not discuss the action to be taken following the interview. They also offered to terminate the interview if the interviewee indicated signs of any distress.

**3.40** An audio typist transcribed every interview under caution and these transcripts were held on the fraud files. We noted that in 17 of the 30 cases we sampled, the transcripts contained gaps, signified by dots. In some cases crucial areas of the interview were not transcribed and this could, potentially, have led to prosecutions being lost. Bridgnorth District Council told us that it had noted this problem and changed the transcript typing process to address the issue. However, no formal guidance on typing up interviews under caution had been put in place and Fraud Investigators only checked completed

transcripts for accuracy and completeness when prosecution action was intended.

**3.41** The council had an interview room, dedicated to interviewing under caution, which was sound proofed and fully equipped.

## **Recommendations**

**We recommend that Bridgnorth District Council puts in place:**

- **guidance to typists covering the way that transcripts of interviews under caution, are typed**
- **a check by the interviewing officer of typed transcripts in all cases to ensure that they are accurate and complete.**

### *Regulation of Investigatory Powers Act 2000*

**3.42** Circular *F20/2001* describes the grounds on which directed covert surveillance can be authorised under the Regulation of Investigatory Powers Act 2000. This legislation and associated codes of practice require that in every case it is only used as a last resort, is appropriate, strictly controlled and proportionate to what it seeks to achieve.

**3.43** All authorised surveillances should be:

- documented, using the standard forms provided by the Department in *Fraud circular F4/2003*
- for a fixed time period, normally not more than 3 months
- reviewed at least monthly and amended as appropriate
- either renewed or cancelled at the end of the authorised time period
- monitored through the use of a control matrix
- logged in a central retrievable register maintained by the authority.

**3.44** In January 2004, the Office of Surveillance Commissioners inspected Bridgnorth District Council. The inspection report acknowledged that the council, despite the modest use of covert surveillance, had:

- *a first-class covert surveillance procedure policy document*
- *officers who have an excellent understanding of the implications of Regulation of Investigatory Powers Act*
- *provided thorough and effective training for all relevant staff.*

**3.45** During the period 2003 to 2005, Bridgnorth District Council had undertaken a total of 4 surveillance activities relating to the investigation of HB cases.

**3.46** We examined the central control register and compared this against the details logged in the individual case files. Bridgnorth District Council used the standard forms provided by the Department and in accordance with the requirements of the Act.

**3.47** We found a number of discrepancies with the older cases when comparing the central register with the individual case files. These discrepancies related to:

- non-completion of either Countersigning Officer's comments or the Authorising Officer's comments, mainly in the individual case files
- surveillance cancellation forms not held on a case file but held in the central register
- change of circumstances forms not fully completed on a case file but fully completed in the central register.

**3.48** Bridgnorth District Council did not maintain a control matrix for monitoring authorised surveillance and these discrepancies could have led to cases being challenged in court.

**3.49** We were told that the council was in the process of clarifying the appointments of both Countersigning and Authorising Officers. Such clarification should ensure that the required forms are both countersigned and authorised correctly.

**3.50** A detailed examination was made of the contents of the 4 cases where surveillance was undertaken which showed that:

- the information obtained was fully in accordance with the surveillance authorised
- the information on the authorisation forms was clear
- useful supporting information was also held on file detailing how the surveillance was conducted.

### *Authorised officers*

**3.51** Section 110A of the Social Security Administration Act 1992 provides for local authorities to authorise officers to exercise the powers under sections 109B and 109C of the Act.

**3.52** Bridgnorth District Council assessed itself as at Standard in this element. We agree with this assessment.

**3.53** Bridgnorth District Council had appointed both Fraud Investigators as authorised officers in accordance with Section 110B(2). These officers:

- had received the necessary training before appointment
- were registered on the Department's Professional Standards Unit's database of authorised officers
- demonstrated clear knowledge of the criteria, guidance and rules covering their powers.

**3.54** Authorised officers must exercise the powers reasonably and ensure that each decision made relating to the use of the powers is documented and that records are available for checking by management. The individuals so authorised, have powers to:

- require a person to provide information including the delivery of documents
- enter certain premises

- question persons on premises that have been entered under the powers.

**3.55** The Act provides a statutory code of practice from which the Department has produced a plain English, non-statutory code. Written requests to employers for information on employees should be made in accordance with this non-statutory code of practice. We found that Bridgnorth District Council complied with this requirement.

**3.56** The Department has also produced an explanatory leaflet to be included with written requests to employers. We found that the council included this leaflet and also provided a copy of the code of practice.

**3.57** Bridgnorth District Council used the Department's standard letters, which were printed as required. These letters included provision for requesting additional information.

**3.58** Section 109B(2A) of the Social Security Administration Act 1992 allows authorised officers to approach banks and other financial institutions for information in support of fraud investigations. Sections 109B(2B to 2E) place conditions on authorised officers' access to information.

**3.59** Bridgnorth District Council had not authorised any staff to use powers under this section of the Act. Instead, use was made of the National Anti-Fraud Network to obtain such information. Requests were submitted through the Fraud Team Leader, using the application form held on the National Anti-Fraud Network website. Use of this facility was noted on the Professional Standards Unit's database.

**3.60** Performance Standards require authorised officers to comply fully with the statutory code of practice when using the powers provided by Section 109B(2A). The code of practice requires councils, in the first instance, to ask customers to sign authorisations to gain access to their bank account details, rather than using authorised officer powers. We found evidence in our fraud file sample of Bridgnorth District Council complying with this requirement.

**3.61** The council had no formalised procedures for authorised officers and the use of their powers, although such use was informally monitored by one of the Team Leaders. The council's Counter-fraud action plan stated that these procedures and checking of the use of the powers would be incorporated into the written procedures planned for completion during 2005.

**3.62** Performance Standards require councils to review the appointments of authorised officers for continuing relevance and need and register the appointments with the Programme Protection Division of the Department. The council confirmed these actions had been carried out and supplied copies of the authorisation certificates of the 2 officers concerned. These certificates showed an expiry date of 31 March 2006.

## Sanctions

**3.63** Where an investigation has produced evidence, to prosecution standard, that fraud has occurred, a local authority can choose between issuing a warning or one of 3 possible sanctions:

- formal caution
- administrative penalty
- prosecution.

**3.64** The decision should be determined by reference to both the authority's own prosecution policy and to the Department's guidelines. The individual circumstances of each case should always be taken into account but the authority should seek to maintain a consistent and equitable approach in all cases.

**3.65** Bridgnorth District Council told us that legal advice was normally only sought where a decision to prosecute had been taken but the written procedures would provide more guidance on what sanction was appropriate.

**3.66** To test Bridgnorth District Council's compliance with the SAFE scheme and assess the quality of its counter-fraud work, we examined 30 cases where sanctions had been applied. These consisted of:

- 15 formal caution cases
- 9 administrative penalty cases
- 6 prosecution cases.

**3.67** We also examined 5 cases where fraud had been proven but no sanction action had been taken.

**3.68** In only 2 of the 5 non-sanction cases were reasons given for not taking sanction action. In the other 3 cases, the evidence on the file and the size of the overpayment were such that a sanction would have been appropriate under the council's Prosecution Policy. The council was able to provide satisfactory explanations for why sanctions had not been applied in these 3 cases but such explanations should have been recorded on the files.

**3.69** Bridgnorth District Council had 2 standard warning letters that it sent where there was clear evidence of fraud but sanction action was not being taken. The letter sent to those who had been interviewed under caution was firmer in tone, including a warning of prosecution in any future case but both letters made plain the consequences of any future false declarations.

**3.70** We found that warning letters had been sent in only 3 of the 5 non-sanction cases. There was no record on file of any action having been taken in the remaining 2 cases.

## Formal cautions

**3.71** A formal caution is a warning given, in certain circumstances, to a person who has committed an offence as an alternative to prosecution. A formal caution can only be considered when:

- there is sufficient evidence to justify instituting criminal proceedings
- the person has admitted the offence during an interview under caution
- the person's history of previous convictions or formal cautions has been taken into account.

**3.72** If the person cautioned is subsequently prosecuted for a further benefit offence, the formal caution may be cited in court. If the person refuses to accept a formal caution, the normal course of action should be criminal proceedings. Therefore the quality of the evidence available to issue a formal caution must be of the same standard as that required for a prosecution.

**3.73** A formal caution is only properly administered when the person signs a document at the end of a face-to-face meeting to show they:

- admit the offence
- agree to the formal caution
- acknowledge that they have been formally cautioned.

**3.74** Bridgnorth District Council assessed itself as at Standard in this element. We agree with this assessment.

**3.75** Figure 3.2 sets out the number of formal cautions offered by the council from 2002/03 to 2004/05 and shows that during this time all the cautions offered were accepted.

<b>Fig. 3.2: Number of formal cautions</b>		
<b>Year</b>	<b>Number offered</b>	<b>Number accepted</b>
<b>2002/03</b>	<b>33</b>	<b>33</b>
<b>2003/04</b>	<b>19</b>	<b>19</b>
<b>2004/05</b>	<b>16</b>	<b>16</b>

Source: Bridgnorth District Council

**3.76** Before a formal caution is offered, councils should check the Police National Computer through the Department for formal cautions or convictions of a related nature. Bridgnorth District Council had made these checks in all 15 formal caution cases in our sample.

**3.77** In 2 of the cases sampled, we did not consider that the customer had admitted the offence. Bridgnorth District Council agreed that a caution should not have been issued in these 2 cases. By offering the formal caution in these cases, the council did not follow its own Prosecution Policy or the Department's guidance. These cases were both from early in 2003 and we were told that procedures had been amended since then to ensure that cautions were not offered without a full admission.

**3.78** This was confirmed by our sampling, which showed that in the 13 more recent caution cases, the required admission had been made during the interview under caution. We were also satisfied that the council had sufficient evidence to pursue a prosecution in these 13 cases had the offer of a formal caution been refused. We concluded that since April 2003 Bridgnorth District Council had been using the formal caution procedures appropriately and in line with legislation and Departmental guidance.

**3.79** To ensure that the Department's central sanctions database is accurate, councils are required to notify the Professional Standards Unit that a formal

caution has been issued. Bridgnorth District Council had made the required notification in all 15 cases in our sample.

## Administrative penalties

**3.80** Section 115A of the Social Security Administration Act 1992 provides local authorities with an opportunity to offer a customer an administrative penalty as an alternative to a prosecution. The penalty is 30% of the value of the overpayment.

**3.81** Bridgnorth District Council assessed itself as at Standard in this element. We disagree with this assessment.

**3.82** Figure 3.3 shows the number of administrative penalties offered by the council and accepted by customers from 2002/03 to 2004/05.

**Fig. 3.3: Number of administrative penalties**

Year	Number of penalties offered	Number of penalties accepted
2002/03	8	8
2003/04	6	6
2004/05	24	24

Source: Bridgnorth District Council

**3.83** Figure 3.3 shows that the number of administrative penalties offered and accepted had increased significantly in the last 3 years. Bridgnorth District Council told us that this was not the result of any policy change. We concluded that the council's increased compliance with the requirement to obtain a full admission before administering a formal caution, was a contributory factor.

**3.84** Departmental guidance states that if someone refuses the offer of an administrative penalty, the council must consider a prosecution. We sampled 9 cases where an administrative penalty was offered and accepted and found that in every case there was sufficient evidence to prosecute should the offer have been refused.

**3.85** We were satisfied that the council offered administrative penalties in line with its Prosecution Policy and that these were offered and issued in accordance with Departmental guidance.

**3.86** The council notified the Professional Standards Unit that it had issued an administrative penalty in all 9 cases in our sample.

**3.87** Performance Standards require councils to:

- vigorously recover administrative penalties and their associated overpayments
- monitor repayments of administrative penalties and their associated overpayments.

**3.88** These requirements are intended to ensure that fraudsters understand the message that crime does not pay and to maximise the deterrent effect.



**3.95** Figure 3.5 shows the number of prosecutions submitted and the number that were successful from 2002/03 to 2004/05.

<b>Fig. 3.5: Number of prosecutions</b>			
<b>Year</b>	<b>Number of cases submitted to solicitors</b>	<b>Number of summonses issued</b>	<b>Number of successful prosecutions</b>
<b>2002/03</b>	<b>6</b>	<b>6</b>	<b>6</b>
<b>2003/04</b>	<b>16</b>	<b>16</b>	<b>10</b>
<b>2004/05</b>	<b>8</b>	<b>8</b>	<b>9</b>

Source: Bridgnorth District Council

**3.96** Figure 3.5 shows the sharp rise in prosecutions between 2002/03 and 2003/04. We were told that the subsequent fall in number in 2004/05 was due to the varying amount of overpayments and increase in administrative penalties during this period.

**3.97** We examined the files for all of the 16 summonses issued in 2003/04 and found that there were 13 successful prosecutions, although not all of these were completed in 2003/04. Details of the 3 cases where summonses were issued but there was no successful prosecution are set out in Figure 3.6.

<b>Fig. 3.6: Summonses issued not resulting in successful prosecutions</b>	
<b>Case</b>	<b>Reason prosecution withdrawn</b>
<b>A</b>	Prosecution action started as customer failed to attend 4 invitations to an interview under caution. Once the summons was issued the customer attended the office and accepted a caution.
<b>B</b>	Prosecution action initiated. Prosecution withdrawn and caution administered after the customer repaid overpayment in full.
<b>C</b>	Prosecution action undertaken. Prosecution subsequently withdrawn and caution issued due to concern regarding the customer's mental health.

Source: BFI analysis

**3.98** Bridgnorth District Council and the other Shropshire authorities all used a local firm of solicitors. This initiative was designed to maximise value for money and the effectiveness of prosecution action. Bridgnorth District Council had also undertaken a pilot to prosecute using its own legal section. Two cases had been taken using Bridgnorth District Council's legal section and both of these cases had been successful.

**3.99** Bridgnorth District Council had made efforts to publicise the success of its counter-fraud work and had gained publicity for its new interview under caution room. It had also issued a press release detailing the success of the Fraud Team. However, of the 25 successful prosecutions in the last 3 years, the local media reported only 4. Figure 3.7 sets out details of this media coverage.

**Fig. 3.7: Counter-fraud publicity since 2003**

Story	Date
Prosecution	June 2003
Interview under caution room	September 2003
Prosecution	September 2003
Prosecution	February 2005
Summary of annual Investigation results	May 2005
Prosecution	May 2005

Source: Bridgnorth District Council

**3.100** The council also tried to publicise benefit fraud prosecutions by alerting the local media to forthcoming court hearings. However, the local press did not always attend court, nor did the council routinely issue a press release to publicise a successful prosecution. The local press had reported the outcome of only one of the 6 prosecution cases in our sample. Bridgnorth District Council neither used its website or council newsletters to publicise successful benefit fraud prosecutions.

**3.101** Bridgnorth District Council should maximise the deterrent effect of its investment in successful prosecution work by utilising all appropriate means to publicise prosecutions.

## Recommendations

### We recommend that Bridgnorth:

- publicises prosecutions on its website
- issues press releases to the local press about successful prosecutions
- uses the council's own publications to show successful prosecutions.

## Subsidy claimed

**3.102** We found that subsidy claims made by the council for payments under the SAFE scheme were accurate and complied with Departmental guidance.

**3.103** Figure 3.8 shows Bridgnorth District Council's subsidy for the period from April 2002 to March 2005.

**Fig. 3.8: Bridgnorth District Council's subsidy claims made under the SAFE scheme from April 2002 to March 2005**

Source	2002/03 (£)	2003/04 (£)	2004/05 (£)
Formal cautions administered	33,000	22,800	19,200
Administrative penalties	8,000	7,200	28,800
Summons issued by court	6,000	19,200	9,600
Successful prosecutions	12,000	20,000	18,000
<b>Total amount claimed</b>	<b>59,000</b>	<b>69,200</b>	<b>75,600</b>

Source: Bridgnorth District Council

## Management of investigations

### 3.104 Proper management of investigations:

- focuses resources on the reduction of fraud
- identifies and rectifies administrative and investigative weaknesses
- assures Members and senior managers of the integrity and quality of investigations.

**3.105** Bridgnorth District Council had assessed itself as being at Standard for this element but we disagree with this assessment.

**3.106** Other than monthly checks of the investigators' official QB50 notebooks and the legal compliance checks when investigations were referred for a decision on a sanction, there was limited management checking of ongoing investigation work.

**3.107** Because of the arrangements that had been put in place, the 2 Fraud Investigators worked almost wholly on their own initiative with little formal or regular management supervision. While this could be regarded as a reflection of the skills, experience and commitment of these staff and the proven quality of their work, it also represented a risk. Members and senior officers had little assurance as to the effectiveness and appropriateness of the council's counter-fraud activities. We were told that this situation would be rectified following the implementation of the partnership arrangements

### 3.108 We found that:

- the Fraud Investigators determined which referrals to investigate and divided the work between themselves
- workloads were not monitored
- investigations were conducted without supervision or management oversight
- there was no monitoring of outcomes.

## Recommendations

**We recommend that Bridgnorth District Council implements a formal management checking process to ensure that its counter-fraud activities are conducted in accordance with legislation and Performance Standards.**

### *Sanction decision process*

**3.109** When an investigation had been completed and the investigator considered that a sanction was appropriate, the following action was taken:

- the Fraud Investigator completed a standard sheet setting out a summary of the facts and making a recommendation
- the Fraud Team Leader reviewed the case file and countersigned the recommendation sheet
- the Head of Revenues made the sanction decision and signed the recommendation sheet
- the agreed sanction was applied as soon as was practicable.

**3.110** We found 2 weaknesses in this procedure at the time of our on-site inspection:

- no formal structured documentation of the investigator's reason for their recommendation or the Head of Revenue's decision
- no detailed and documented management checks to ensure that the investigation had covered everything that was necessary to support the sanction process.

**3.111** We were told that the Fraud Team Leader checked all sanction cases to ensure that they had complied with all relevant statutory requirements. However, the Data Protection Act 1998 was omitted and details of the checks made were not documented.

**3.112** These weaknesses meant there was no effective audit trail to substantiate the decisions taken, possibly leaving the council's sanction decision making open to challenge. It also made it difficult to consistently match the decisions taken with the council's Prosecution Policy.

## Recommendations

**We recommend that Bridgnorth District Council:**

- **introduces and documents detailed management checks at the completion of each investigation to ensure that the case satisfies all legal and local requirements and that it could be successfully prosecuted if necessary**
- **introduces a formal decision matrix to record the reasons for each sanction decision.**

## *Security and confidentiality of fraud files*

**3.113** The Fraud Investigators shared an open plan office with the Assessment Team. As a result, telephone and other conversations could be overheard. In addition, during the day the fraud filing cabinets were generally left unlocked and current investigation files were commonly left on the Fraud Investigators' desks. The file containing referrals that had not been investigated was held in an open bookcase and was freely accessible to anyone passing by.

**3.114** We were told, and also observed, that it was rare for there not to be a Fraud Investigator in the office at all times during the day. We also understand the argument that the high level of referrals received from the Assessment Team was due at least in part to the very close working arrangements within the combined office. Nonetheless, we consider that there should be a degree of physical separation between the Fraud Team and the Assessment Team.

### **Recommendations**

#### **We recommend that Bridgnorth District Council:**

- **reviews the security of its fraud files**
- **provides an effective separation between the Fraud and Assessment Teams.**

## *Monitoring of performance*

**3.115** No targets had been set and there was no formal monitoring of the performance of the Fraud Team. We were told, however, that there was a general expectation that the sanctions achieved and the SAFE rewards claimed, would be in line with, or greater than, the previous year's results. The Fraud Section's Service and Business Plan was in the process of being updated but contained no clear measures against which the Fraud Team's progress and achievements might be assessed. As a result, senior officers and Members had no opportunity to influence the direction and volume of counter-fraud work in line with the council's policies.

**3.116** The work of the Fraud Team was a standing item for the monthly meetings of the Assessment Team. Information about the referrals received, cases investigated, sanctions applied and SAFE rewards claimed was reported informally but only reported annually to senior officers and Members.

**3.117** There were frequent but informal meetings between the team Leaders and the Head of Revenues and between all the team leaders in the Revenues Department. Although workload and results were commonly discussed, none of these meetings had formal agendas or were documented.

**3.118** Although the team Leaders produced the quarterly Best Value Performance Indicators and reported these to the Department, we were told that this information was not formally reported within the council or to Members.

**3.119** The Fraud Investigators participated in the council's staff appraisal and development scheme but the focus was on their personal and career

development. The investigators did not have personal work objectives against which their performance could be assessed.

## **Recommendations**

**We recommend that Bridgnorth District Council:**

- **develops formal measures to assess the performance of the Fraud Team and includes these within the annual Fraud Section Service and Business Plan**
- **monitors performance and reports regularly to senior officers and Members on performance against these measures**
- **within the staff appraisal scheme, sets work objectives for the Fraud Investigators that reflect the expectations set out in the Fraud Section Service and Business Plan.**

# Appendices

*Appendix A: Summary of recommendations*

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# Appendix A: Summary of recommendations

The tables in this appendix show all the recommendations we have made in this inspection.

## Independent assurance

Recommendations	
We recommend that Bridgnorth District Council ensures that Internal Audit:	Paragraph
<ul style="list-style-type: none"> <li>uses Performance Standards to assess the performance of the Benefits Service and the Fraud Team.</li> </ul>	2.7

## BFI findings

Recommendations	
We recommend that Bridgnorth District Council:	Paragraph
<ul style="list-style-type: none"> <li>introduces detailed procedural guidance to provide an accurate and up-to-date guide to actual practice.</li> </ul>	3.15
<ul style="list-style-type: none"> <li>introduces a standard file structure and a standard contents list, segmenting information according to its nature</li> <li>specifies how information held on the case and document management IT systems should be cross referenced to the paper files</li> <li>determines the purpose for which it retains referrals not investigated and ensures that the way in which this is retained meets the requirements of the Data Protection Act 1998.</li> </ul>	3.32
<ul style="list-style-type: none"> <li>puts in place guidance to typists covering the way that transcripts of interviews under caution, are typed</li> <li>puts in place a check by the interviewing officer of typed transcripts in all cases to ensure that they are accurate and complete.</li> </ul>	3.41
<ul style="list-style-type: none"> <li>ensures that the appointments of its Countersigning and Authorising Officers are clarified.</li> </ul>	3.50

<b>We recommend that Bridgnorth District Council:</b>	<b>Paragraph</b>
<ul style="list-style-type: none"> <li>• develops procedures to ensure that administrative penalties are recovered once the associated fraud overpayment has been cleared</li> <li>• monitors recovery of these penalties.</li> </ul>	<b>3.90</b>
<ul style="list-style-type: none"> <li>• publicises prosecutions on its website</li> <li>• issues press releases to the local press about successful prosecutions</li> <li>• use the council's own publications to show successful prosecutions.</li> </ul>	<b>3.101</b>
<ul style="list-style-type: none"> <li>• implements a formal management checking process to ensure that its counter-fraud activities are conducted in accordance with legislation and Performance Standards.</li> </ul>	<b>3.108</b>
<ul style="list-style-type: none"> <li>• introduces and documents detailed management checks at the completion of each investigation to ensure that the case satisfies all legal and local requirements and that it could be successfully prosecuted if necessary</li> <li>• introduces a formal decision matrix to record the reasons for each sanction decision.</li> </ul>	<b>3.112</b>
<ul style="list-style-type: none"> <li>• reviews the security of its fraud files</li> <li>• provides an effective separation between the Fraud and Assessment Teams.</li> </ul>	<b>3.114</b>
<ul style="list-style-type: none"> <li>• develops formal measures to assess the performance of the Fraud Team and includes these within the annual Fraud Section Service and Business Plan</li> <li>• monitors performance and reports regularly to senior officers and Members on performance against these measures</li> <li>• within the staff appraisal scheme, sets work objectives for the Fraud Investigators that reflect the expectations set out in the Fraud Section Service and Business Plan.</li> </ul>	<b>3.119</b>

