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Single Fraud Investigation Service (SFIS) Project Update

Further to my letter of 9 December 2013, I am writing to update you on the progress of the Single Fraud Investigation Service (SFIS) project. This is a pivotal year for the project. Our implementation starts with a small number of sites going live in the summer and national phased implementation commencing in October 2014 and running until March 2016.

This letter provides updates on the following activities that are currently taking place within the SFIS Project to support implementation:

- **Implementation Planning**
- **Human Resources (HR) transfer approach.**

Implementation Planning

Since 5th November 2013 your Local Authority (LA) has been participating as a pilot site in readiness for the introduction of SFIS. I would like to thank you and your staff for your contribution to the pilot and your continued support.

Following the Autumn Statement announcement of the delivery approach, we have been working closely with our partners and key stakeholders in Local Government, the Department for Work and Pensions (DWP) and HM Revenue & Customs, developing plans to enable the national implementation and I am pleased to confirm that the implementation approach that has been agreed is as follows:

- **Phase 1 - Implementation to commence with a small number of sites in summer 2014**
- **A break to evaluate and learn lessons from the transfer process, prior to full national implementation.**
- **Phase 2 - Implementation to re-commence in October 2014 and run for a further 18 months to March 2016. Detailed conversations with these sites are due to commence in May.**

We are planning for your LA, along with the other pilot sites, to be part of Phase 1 -

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the first of the LAs to migrate Housing Benefit fraud and residual Council Tax Benefit fraud activities to DWP's Fraud and Error Service during summer 2014. The exact implementation date for your LA will be agreed with your DWP Implementation Lead.

Any staff in your LA who also work on Housing Benefit fraud and residual Council Tax Benefit fraud activities, but are not currently part of the pilot, may be considered to be within scope from summer 2014.

Members from the DWP team will be meeting with your pilot leads on **13 March 2014**. This meeting will provide additional information about how the DWP Fraud and Error Service will deliver single fraud investigations covering all welfare benefits. If you have any concerns before the meeting please contact Gary Hughes on 01772 899487 | 07795316380 email: GARY.D.HUGHES@DWP.GSI.GOV.UK. The project team will also contact you to gather essential information about your LA to support implementation planning.

Human Resources Transfer Approach

The Government's Autumn Statement confirmed the implementation of the SFIS project and stated that, in order to maintain an effective fraud investigation service, DWP was keen for employees assigned to this work to transfer with it. We said at the time that there was not enough information to say conclusively whether the Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) would or would not apply. We have further considered the TUPE position and how to accomplish the transfer of these employees.

The purpose of this section is to provide an update on these considerations and start the information and consultation process.

TUPE and Cabinet Office Statement of Practice (COSoP)

TUPE regulations state "...the transfer of administrative functions between public administrative authorities is not a relevant transfer" (for the purpose of TUPE). After careful consideration, DWP has concluded that benefit fraud investigations falls within this category, and as such, TUPE will not apply.

However DWP is committed to taking employees currently assigned to welfare benefit fraud investigation work. The Cabinet Office Statement of Practice for Staff Transfers in the Public Sector says that, in circumstances where TUPE does not apply in strict legal terms to transfer between different parts of the public sector, the principles of TUPE should be followed so far as possible, in accordance with business need. Therefore, in order to maintain an effective fraud investigation service, DWP has decided to adopt this principle.

Transfer Scheme

In line with COSoP guidelines, the legal platform to enable the transfer is by way of a Legislative Transfer Scheme as provided for by Section 38 of the Employment Relations Act 1999.

Section 38 provides the DWP Secretary of State (SoS) with powers (through regulations laid in Parliament) to transfer employees in scope via a Statutory Staff Transfer Scheme. The Regulations are made by way of Statutory Instrument (SI) which will be laid before Parliament under the negative procedure and will become effective before the anticipated transfer date.

The scheme will apply to employees working for local authorities or employees working for contracted suppliers. Individuals working on a self-employed basis are not included.

Action will be taken locally to identify and formally notify individuals that they are to be included in the SI. This action will be carried out concurrently with the legislative transfer activity and all staff will be notified prior to the effective date of the transfer. If an employee is not formally notified that they are included in the SI, that member of staff will not transfer.

Employees in Scope for Transfer

Local Authority investigation of Housing Benefit fraud and residual Council tax benefit fraud is the work which will transfer to DWP. Employees assigned solely or primarily to this activity should be identified for a potential transfer to DWP. Individuals assigned solely or primarily to activities which are not moving into SFIS should not be deemed in scope. Also excluded are those employees assigned to work which ceases and/or those individuals whose work will not be carried out by DWP.

Local authorities (or their contracted supplier with oversight by the local authority) will be responsible for identifying employees potentially in scope for the transfer to DWP. DWP will review propositions for transfer before reaching a final agreement with the local authority, or contracted supplier, on staff to transfer.

Annex 1 contains a list of activities which are transferring from LA benefit fraud to SFIS.

Terms and conditions of Employment

The transfer of staff by way of a Section 38 legislative transfer scheme will be "TUPE-like" in that it will provide protection of existing terms and conditions of employment in line with the requirements of COSoP.

Impact on Pensions

Transferring staff will join the Principal Civil Service Pension Scheme (PCSPS) on their first day with DWP. They will be given the option of transferring their previous pension service into the PCSPS, or leaving it with their current scheme until they are entitled to receive pension payments.

HR Next Steps

A dedicated DWP HR Team is supporting the project in bringing the work and people into DWP. The HR Team will engage with LAs and external suppliers in Phase 1 locations to review and agree the proposition for staff transfers and to start the comparison of terms and conditions of employment.

There are around 380 LAs for the HR Team to engage with. They will initially engage with those LAs moving into SFIS first and will align transfer of employees according to the implementation schedule. However, all LAs and key groups will be kept updated with plans and activities regardless of their position on the implementation schedule.

We require a **named HR Single Point of Contact (SPOC)** to work with throughout the transfer period. LAs with outsourced fraud services should also supply details of a named individual within that external organisation. Your DWP Implementation Lead will gather this information from you.

The Project will be holding a Phase 1 Implementation Event on **13 March 2014** in London. The HR Team would like to invite the HR SPOC to attend to begin the HR engagement and discuss the transfer mechanism in detail. This is an important step in the engagement process.

DWP will work jointly with each SPOC to identify and execute all of the necessary actions to achieve a smooth transition for those employees who will be moving into DWP.

The transfer of benefit fraud investigation work into DWP's Fraud and Error Service and the transfer of eligible staff will include outsourced fraud services. Consequently this will impact on commercial arrangements LAs have with their suppliers. LAs need to consider this impact as part of the planning process.

You may also wish to engage with any Trade Unions that represent LA staff. Please ensure that they are informed of the content of this letter.

In addition, a decision has been made that all prosecutions arising from SFIS investigations, including the prosecution of housing benefit and/or council tax benefit fraud, will be conducted solely by the Crown Prosecution Service (CPS) in England and Wales. The CPS will be leading separately on this matter in partnership with DWP.

HR Summary

The introduction of single fraud investigations is a key part of the agenda for reducing loss through the benefits system and represents a significant change for our organisations and people.

DWP is developing the Section 38 Legislative Transfer Scheme to facilitate the transfer of employees when the work moves across to DWP.

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We will keep you updated with regular progress reports and communications. **Annex 2** contains a list of questions and answers which you may find useful in supporting your own internal communications with employees who may be impacted by this change.

I hope you agree that this is a sensible way of achieving the safe transfer of employees whilst protecting their terms and conditions of employment. If you have any comments on this approach, please send them to the email address below by **14 April 2014**.

Next steps

I look forward to continuing working together and I am sure that our joint commitment will ensure that we implement an effective and improved fraud investigation service which is able to meet both present and future needs.

If you want to know more about The Single Fraud Investigations, you should request to join the SFIS Communications Hub on Knowledge Hub. To access the Knowledge Hub you will need to register at the following site: <https://knowledgehub.local.gov.uk/home> then search under "Groups" for SFIS Communications Hub and request to join. Regular updates will be posted on the Knowledge Hub.

If you have any further questions on the project please contact your DWP SFIS Implementation Lead or forward them to:

SINGLEFRAUDINVESTIGATIONSERVICE-.QUERIES@DWP.GSI.GOV.UK.

Yours sincerely

Joanne Bradshaw

ANNEX 1

Example Activities Transferring from LAs to DWP SFIS

- Conducting Housing Benefit / residual Council Tax benefit fraud investigations in line with instructions in user manuals/guidance.
- Conducting Interviews Under Caution in accordance with The Police and Criminal Evidence Act 1984 (England and Wales) and Common Law (Scotland).
- Conducting interviews with Customers to offer Administrative Penalties, Formal Cautions (England & Wales) and Administrative Cautions (Scotland).
- In respect of welfare benefit fraud, recording the progress of a case on IT/ Case management systems, taking into account the potential for referring appropriate cases to, and liaising with, other teams such as Customer Compliance / visiting officers, DWP Fraud Investigations and Financial Investigation Unit (FIU).
- Maintaining relevant evidence files, annotating appropriate material as sensitive including maintaining an N1 notebook, in respect of fraud.
- Information / Intelligence gathering to ensure suitability of case for fraud investigation
- Information / Intelligence gathering to build case for investigation
- Developing cases into prosecution cases and attending Court as a witness.
- Liaising with other Departments/organisations on fraud matters.
- Making requests for surveillance to the TFI in line with the Regulation of Investigatory Powers Act (RIPA) and the accompanying code of practice.
- Conducting surveillance.
- Making requests to Authorised Officers in line with the Social Security Fraud Act (SSFA) and FPI for information from information providers.
- Requesting information such as employment details from an employer in line with current policy.
- Managing welfare benefit fraud business on behalf of the LA within a specific team.
- Recommending requests for surveillance to the appropriate Local Authority Officer in line with the requirements of the Regulation of Investigatory Powers Act (RIPA) and the accompanying code of practice. This requires the authority of a Magistrate.
- Performing Financial Investigation Recovery activity on welfare benefit fraud cases on behalf of the LA, including conducting this work for other LAs.
- Carrying out instructions set out by the Assets Recovery Agency (ARA) and other user manuals.
- Requesting orders as prescribed within the Proceeds of Crime Act.
- Preparing all submissions relating to Proceeds of Crime action in Court and to attend Court where necessary.

Work NOT Transferring from LAs to DWP SFIS

- Hotlines/ LA call centres that take reports of fraud/suspected fraud
- LA compliance/ visiting staff
- HB/CTB decision makers, benefit processors, overpayment or debt staff
- Solicitors employed / contracted by LAs for the purpose of Fraud Prosecution work

ANNEX 2

SFIS Project - Questions and Answers

Q: Why doesn't TUPE apply to the transfer of staff into DWP when single investigations are introduced?

A: The transfer of staff in to DWP is considered to be an administrative transfer and is therefore not covered by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) (1). However, DWP is committed to taking those employees currently assigned to benefit fraud investigation work. In order to effect the transfer of contracts of employment of employees, and provide them with similar employment rights protection to that which they would have under TUPE, the Secretary of State proposes to use powers under the Employment Relations Act 1999 to create a statutory staff transfer scheme (STS) which will be "TUPE-like".

Q: What protections are there for staff transferring to DWP under the Statutory Transfer Scheme?

A: In order to ensure the fair and equitable treatment of employees we are seeking to ensure that the transfer scheme and consultation process mirrors TUPE, as far as practicable. This reflects the approach set out in the Cabinet Office Statement of Practice on Staff Transfers (COSOP).

Q: Can DWP unilaterally change my terms and conditions of employment post transfer?

A: Your terms and conditions of employment will transfer with you. There may be little difference between those on offer in DWP they could also be more or less favourable. Terms and conditions can only be changed by negotiation and consent.

Q: Will I become a Civil Servant on transfer to DWP?

A: Yes, you will become a Civil Servant on transfer.

Q: Can I object to the transfer?

A: Yes you can. But if you object to transfer you would not transfer over to DWP and your contract of employment will come to an end unless your current employer agrees otherwise.

Q: What happens to my salary?

A: Your salary will be protected. If it is more than the DWP pay scale you will retain your current (higher) salary. If your salary is below the minimum of the DWP pay scales, your salary will be automatically uplifted.

Q: What happens to my pension on transfer?

A: Transferring staff will join the Principal Civil Service Pension Scheme (PCSPS) on their first day with DWP. They will be given the option of transferring their previous pension service into the PCSPS, or leaving it with their current scheme until they are entitled to receive pension payments.

Q: Am I guaranteed a job in SFIS?

A: We expect the vast majority of staff to be allocated to a role in SFIS. Where we are unable to do this, other options will be considered in consultation with those affected. This could include posting you into another DWP role.

Q: How far am I expected to travel to my new location when I move to DWP?

A: All fraud investigations will be delivered from sites where FES employees are currently are located but we may also base people in other DWP sites. If this means a longer commute to work, your daily commute will be in line with your employer's current mobility policy. This will be a matter for individual discussion where necessary. There may be isolated cases where individuals will have mobility restrictions which mean they are unable to travel to any DWP site. In these circumstances we will discuss this with your employer before the transfer to explore what options would be available based on individual circumstances.

Q: When will I know which role I will be given and where I will be based?

A: Prior to the transfer, we will look at the transfer propositions from each employer in the vicinity, We will then consider a number of factors which includes the total number of staff available, where they live, and then compare this against the delivery options in DWP.

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