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## Sanctions Policy

### 1. Policy Statement

- 1.1 We will use the full range of sanctions available to us, including criminal prosecution, civil recovery, internal disciplinary procedures and referral to regulatory bodies in order to deter fraud, bribery and corruption.
- 1.2 Our Legal Services and the Crown Prosecution Service will be used to undertake prosecutions; and we will refer all relevant cases to the appropriate professional bodies and other law enforcement agencies. We will assist external organisations if they decide to bring their own prosecution cases.
- 1.3 Our fraud and corruption strategy states that we will seek the full range of sanctions against anyone found to have committed fraud against the Council: and they will apply to any fraud either against the Council or against money that the Council has responsibility for.

### 2. Deciding what sanction to apply

- 2.1 We have a range of sanctions that we can use, including internal disciplinary procedures and criminal and civil prosecutions; and we have this policy to make sure that we:
- Apply all available sanctions consistently;
  - Apply sanctions efficiently and cost effectively; and
  - Have a transparent and robust decision making process.
- 2.2 In some cases, we may apply more than one sanction e.g. if a member of staff has stolen money from us, we may take internal disciplinary proceedings, refer the matter to the police, and undertake civil recovery procedures.
- 2.3 We may decide to pursue a criminal prosecution in some cases; these will usually be reserved for those cases, which we think, are the most serious. The Council has the power to undertake some prosecutions itself using our Legal Services, but some cases can only be decided on by the Crown Prosecution Service.
- 2.4 All cases which are considered for prosecution will apply firstly the 'Evidential Test'; and secondly the 'Public Interest Test', as set out in the Code for Crown Prosecutors 2020 as follows:  
**Evidential Test** - The investigator will consider the following questions in assessing whether there is sufficient evidence to prosecute the case: Can the evidence be used in court? Is the evidence reliable? Is the evidence credible?

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**Public Interest Test** - If the Evidential Test has been met, the investigator will then consider whether or not a prosecution would be in the public interest. Each case will be assessed on its own merits and a review will include: How serious the offence is; the level of culpability of the suspect; the circumstances of and the harm caused to the victim; if the suspect was under the age of 18 at the time of the offence; the impact on the community; whether prosecution is a proportionate response; and whether sources of information require protecting.

### **3. Types of fraud and the possible sanctions**

#### **3.1 Employees, Councillors, Teachers, School Staff**

If we find that any of our staff or councillors have committed fraud, or been involved in corruption, we will undertake disciplinary action in the first instance. If we identify that the Council has suffered any financial loss, we will always seek to recover this, including through civil and criminal prosecutions. Where staff are members of professional bodies, or have to comply with national codes of conduct (teachers, social care staff etc), we will refer any cases of fraud and corruption to these bodies.

#### **3.2 Benefit Fraud**

The Department for Work and Pensions is responsible for investigating housing benefits fraud, but the Council is still responsible for assessing and paying for some benefits including council tax support, and social fund.

#### **3.3 Housing and Right to Buy Fraud**

In all cases where anyone has fraudulently applied for Right to Buy, housing support, or a tenancy from the Council, we will always seek repossession of the property and recovery of any financial losses. Where we identify that a tenant is sub-letting their property illegally, we will use the Prevention of Social Housing Fraud Act 2013 to prosecute them and recover any money they gained by sub-letting their property. We will also consider using the Fraud Act 2006.

#### **3.4 Other fraud**

There are a number of other areas such as: insurance claims, direct care payments, grants to organisations, exemptions and reliefs from Council Tax or Non-domestic rate payments, and applications for financial and other assistance where theft and fraud may occur. We will always seek to recover any money lost and consider a criminal or civil prosecution. Where an external organisation is involved, we will make a referral to any relevant governing body such as the Law Society, Charities Commission, or the Registrar of Companies.

### **4. Proceeds of Crime Act 2002**

4.1 The Proceeds of Crime Act 2002 (POCA) was put in place to demonstrate that crime does not pay. We will use POCA wherever we can to obtain confiscation

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orders, including compensation orders, as well as recovery of the full overpayment of benefits. We may use accredited Financial Investigators attached to other enforcement agencies, or the police, to assist us.

**5. Monitoring**

5.1 The Assistant Director of Corporate Governance (the Council's Monitoring Officer), is responsible for the maintenance and operation of this policy. The Assistant Director of Corporate Governance and Head of Audit and Risk Management will liaise with the Chief People Officer when the policy is subject to review in order to ensure all relevant employment requirements are taken into account.