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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 and could be named in action that other Authorities lead on where a memorandum of understanding is agreed.
- 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:



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**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?

**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.

Whenever it is appropriate, the Authority will consider offering other sanctions as an alternative to prosecution. The decision to offer (or not to offer) an alternative sanction is a matter for the Authority alone.

### **3. Types of fraud and the possible sanctions (include but not limited to)**

#### **3.1 Types of fraud offence:**

- Fraud by false representation.
- Fraud by failure to disclose information when there is a legal duty to do so.
- Fraud by abuse of position.

#### **3.2 In 2024 a new offence of 'Failure to Prevent Fraud' also comes into force.**

#### **3.3 Employees, Agency Workers, Councillors, Teachers, School Staff**

If we find that any of employees or councillors have committed fraud, or been involved in bribery or corruption, we will undertake disciplinary action under the relevant policy or end the agency worker assignment, in conjunction with a fraud investigation. This includes any social welfare fraud by these individuals. 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 professional bodies.

#### **3.4 Blue Badge Fraud**

Cautions and Financial sanctions are applied to Blue Badge cases. The financial sanction is determined by the level of investigative resources



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required on the case and consistency is ensured via management review and for complex cases a panel involving legal. The most serious of cases or cases where cautions cannot be applied will be prosecuted and a criteria is in place to determine those, again these are progressed based on a panel decision.

#### 3.5 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.

#### 3.6 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.

Proportionality and the Public Interest Test are applied on a case by case basis by the Head of Internal Audit and case conferences are convened with legal to consider decisions.

### 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 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 Council's Monitoring Officer is responsible for the maintenance and operation of this policy and with work with the Head of Audit and Risk to ensure sanctions are consistently and equitably applied.

## **Audit Committee October 8<sup>th</sup> – Appendix 3**

Anti-Fraud, Bribery & Corruption APPENDIX 3



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- 5.2 The Monitoring Officer 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.
- 5.3 Sanctions applied are reported to the Statutory Officers Group and the Audit Committee.