



**Haringey Council**

<b>Report for:</b>	<b>The Leader</b>	<b>Item Number:</b>	
<b>Title:</b>	<b>Authorisation and delegation in respect of fraud prosecutions</b>		
<b>Report Authorised by:</b>	<b>Julie Parker – Director of Corporate Resources</b> <i>J Parker 4/7/13</i>		
<b>Lead Officer:</b>	<b>Anne Woods – Head of Audit &amp; Risk Management</b>		
<b>Ward(s) affected:</b>	<b>Report for Key/Non Key Decisions:</b>		
<b>All</b>	<b>Non key decision</b>		

**1. Describe the issue under consideration**

Improved joined up working across different authorities has revealed benefit fraud offences to have taken place by the same defendant in Haringey and Thurrock, and in another case, in Haringey and Islington. In order to send a message to fraudsters that authorities are working together and due to the benefits of running a single set of legal proceedings, Thurrock Council has offered to include Haringey offences in a prosecution on which they will lead. Likewise, Islington has authorised Haringey Council to institute a prosecution to include their offences. Under the Constitution, only the Leader or Cabinet can authorise another authority to conduct a function on its behalf and to accept an authorisation to exercise a function on another authority's behalf.

**2. Recommendations**

Subject to agreement as to the fair apportionment of costs by the Head of Audit & Risk Management:

- a) that the Leader authorises Thurrock Council to prosecute offences relating to benefits issued by Haringey Council
- b) that the Leader accepts authority from Islington Council for Haringey Council to prosecute for offences relating to benefits issued by Islington Council



- c) As regard future cross authority investigations, to delegate authority to the Head of Audit & Risk Management to institute fraud prosecutions on behalf of other local authorities.
- d) To delegate authority to the Head of Audit & Risk Management to authorise other local authorities to institute fraud prosecutions on behalf of Haringey Council.

### **3. Alternative options considered**

Each authority may prosecute only for benefits issued by it. This would, however, mean that a joint investigation would be followed by separate legal proceedings in different courts which is not beneficial to the tax payer at large, neither from an efficiency point of view, nor from giving an impression that fraudsters can potentially avoid the true extent of their fraud being realised by prosecuting individual offences in different courts.

### **4. Background information**

The duties of the Audit & Risk Management Department include the investigation of fraud offences (most notably in respect of housing benefit and council tax, but more recently including tenancy and Right to Buy fraud). The Council's Legal Service already prosecutes some cases on behalf of the Department for Works and Pensions and vice versa.

### **5. Comments of the Chief Finance Officer and financial implications**

There are no direct financial implications arising from this report. The work completed by Audit & Risk Management to investigate benefit, tenancy and other frauds, including the legal costs of prosecutions, is contained and managed within the Audit and Risk Management revenue budget.

Where joint prosecutions are agreed between authorities, an individual agreement will be made on allocation of costs in advance to minimise financial risks to the Council.

The courts often order convicted offenders to pay councils back a proportion of their prosecution costs.

### **6. Head of Legal Services and legal implications**

The enforcement of benefit fraud offences is an executive function. Under Article 11.04(b) of the Constitution, the Leader, or the Cabinet with the Leader's agreement, may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances. Under Article 11.04(b), the decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting in the case of non-executive or mixed functions and to the Leader, or the Cabinet with the Leader's agreement, in the case of executive functions.



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**7. Equalities and Community Cohesion Comments**

Prosecutions require the consideration of public interest factors and are subject to the Code for Crown Prosecutors, the Enforcement Concordat and any enforcement policy an issuing authority may have e.g. Haringey Council's Sanction Policy.

**8. Head of Procurement Comments**

N/A

**9. Policy Implication**

The decision as to whether to prosecute will continue to be considered by each authority on its merits on a case by case basis in accordance with relevant enforcement policies, the Code for Crown Prosecutors, and the Enforcement Concordat.

**10. Reasons for Decision**

To prevent the need for different sets of legal proceedings arising out of the same or similar facts; and to send a message to fraudsters that different authorities that issue benefits are working together.

**11. Use of Appendices**

N/A

**12. Local Government (Access to Information) Act 1985**

N/A

