

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. The use of sanctions will be guided by this sanctions policy 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 decide to 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. Prosecutions will 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 2013 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?

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 is the offence committed?
- What is the level of culpability of the suspect?
- What are the circumstances of and the harm caused to the victim?
- Was the suspect under the age of 18 at the time of the offence?
- What is the impact on the community?
- Is prosecution a proportionate response?
- Do 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 Welfare Benefit Fraud

The Council is still responsible for assessing and paying for some local and national benefits including housing benefit, council tax support, and social fund; and we are still empowered to investigate some other national benefits including income support, employment support allowance. Some specific sanctions can be applied for these cases, as follows:

Civil Cautions: A 'fixed penalty' sanction, which can be administered as an alternative to prosecution. Usually this applies to lower value cases and if the person refuses to accept the sanction, the case may be referred for prosecution.

Administrative Penalties: Section 15 of the Social Security (Fraud) Act 1997, allows the Council to apply an Administrative Penalty as an alternative to prosecution. The penalty is fixed to 30% of the total qualifying overpayment. We will always seek to recover the overpaid benefit and if the person refuses the Administrative Penalty, the case will usually be referred for prosecution.

3.3 Housing Fraud

In all cases where anyone has fraudulently applied for and got 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 Social Housing Fraud Act 2013 to prosecute them and recover any money they gained by sub-letting their property.

3.4 Other fraud

There are a number of other areas such as: 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 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 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 in our work and to obtain orders and present evidence.

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 Assistant Director of Human Resources when the policy is subject to review in order to ensure all relevant employment requirements are taken into account.