

<b>CABINET</b>	<b>12 JUNE 2008</b>
<b>CORPORATE GOVERNANCE PANEL</b>	<b>24 JUNE 2008</b>

**BENEFIT FRAUD PROSECUTION POLICY & PROCEDURES  
(Report by Head of Customer Services)**

**1. INTRODUCTION**

- 1.1 This report is to formalise the outcome of a review of the existing procedure for the sanction and prosecution of those persons found to be committing benefit fraud. The existing procedures for disposal of these matters are contained in the council's Anti-Fraud and Corruption Strategy.
- 1.2 The Fraud Team undertakes investigation of allegedly fraudulent applications for housing benefit and council tax benefit. This work complies with various legislative requirements as well as providing protection of the public purse.
- 1.3 The Team are part of the Benefit Service and report through the Benefit Manager to the Head of Customer Services.

**2. SANCTIONS & PROSECUTIONS**

- 2.1 All cases of Benefit Fraud identified following investigation are referred to the Head of Customer Services (HoS) by the Fraud Manager (FM) in accordance with the Prosecution Policy. The FM will make recommendation on disposal of every case based on the public interest and evidential test and the HoS will approve or amend these in line with the existing procedures and the likelihood of securing a conviction.
- 2.2 The council currently brings all prosecutions through the Head of Legal Services. The council's Solicitor either then presents the cases in court or instructs other High Street solicitors to act as agents, or in Crown Court matters instructs counsel through recommended chambers.
- 2.3 All others sanctions, in relation to Benefit Fraud Matters, short of prosecution which are allowed by legislation or Home Office guidance are conducted by the Fraud Manager (FM), once such disposal has been agreed by the Head of Customer Services (HoS).
- 2.4 Where partner organisations are involved (for example, the Department for Work and Pensions) they will sometimes lead on any sanction or prosecution as agreed as part of the partnership working arrangements in place. These actions will include any offences identified by the Fraud Team.

- 2.5 The Fraud Team undertake in excess of 400 investigations into alleged benefit fraud each year. The success rate of these investigations resulted in 109 sanctions and prosecutions 2006/2007 and 120 in 2007/2008, this number continues to increase year on year. Sanctions include Formal Cautions and Administrative Penalties (fines) as well as prosecutions.
- 2.6 The Fraud Team provide a service to the Benefit Section. However, its expertise and specialist knowledge has led to its use by the Local Taxation and Housing Departments. There are no formal arrangements in place to allow such investigations and no funding or internal recharges made for this type of work by the Fraud Team.

### **3. PROPOSAL**

- 3.1. Having undertaken a review of the council's prosecution policy and procedures, and noting the year on year increase in fraud detection and sanction activity, it is proposed that the issuing of lesser sanctions (Formal Cautions & Administrative Penalties) be delegated to the Fraud Manager, and that these changes are reflected in the Prosecution Policy. The number of cases being dealt with in this manner cannot be undertaken by the HoS due to volume and requirement to manage the process throughout.
- 3.2. The volume of cases passed to the councils Legal Services Team has resulted in some delays in cases being brought to court. A pilot scheme was introduced in early 2007 to train and then allow the Fraud Manager to present some matters in court for first, plea and sentencing hearings where the cases are relatively straight forward. This has been found to be very successful and reference to the council's own solicitor, where legal advice was required, has been maintained. It is proposed that this delegation be formally agreed and included in the constitution.
- 3.3. The Fraud Team need to have in place an agreed process for reporting on other types of council fraud and for this activity to be funded by way of recharges to those services.

### **5. RECOMMENDATIONS**

- 5.1 It is

#### **RECOMMENDED**

that the Chief Officers/Panel/Cabinet

- (a) note the content of this report;
- (b) agree and authorise the revised Prosecution Policy attached at Annexe A;
- (c) authorise the amendment of the Delegated Functions within the Council Constitution to allow the Fraud Manager to undertake court hearings and issue appropriate sanctions as detailed in paragraph 3.1;

- (d) amend the same functions to allow the Fraud Team staff to undertake investigations in fraud affecting other District Council services and report to the relevant HoS on the outcomes, findings and recommendations of these investigations.

## **BACKGROUND INFORMATION**

The Social Security Administration Act 1992, as amended.

The Fraud Act 2006

Police and Criminal Evidence Act 1984

Criminal Procedures and Investigations Act 1996

Local Government Acts 1972, as amended

Local Government Finance Act 1992, as amended

Housing Act 1996

HDC- Anti-Fraud and Corruption Strategy

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